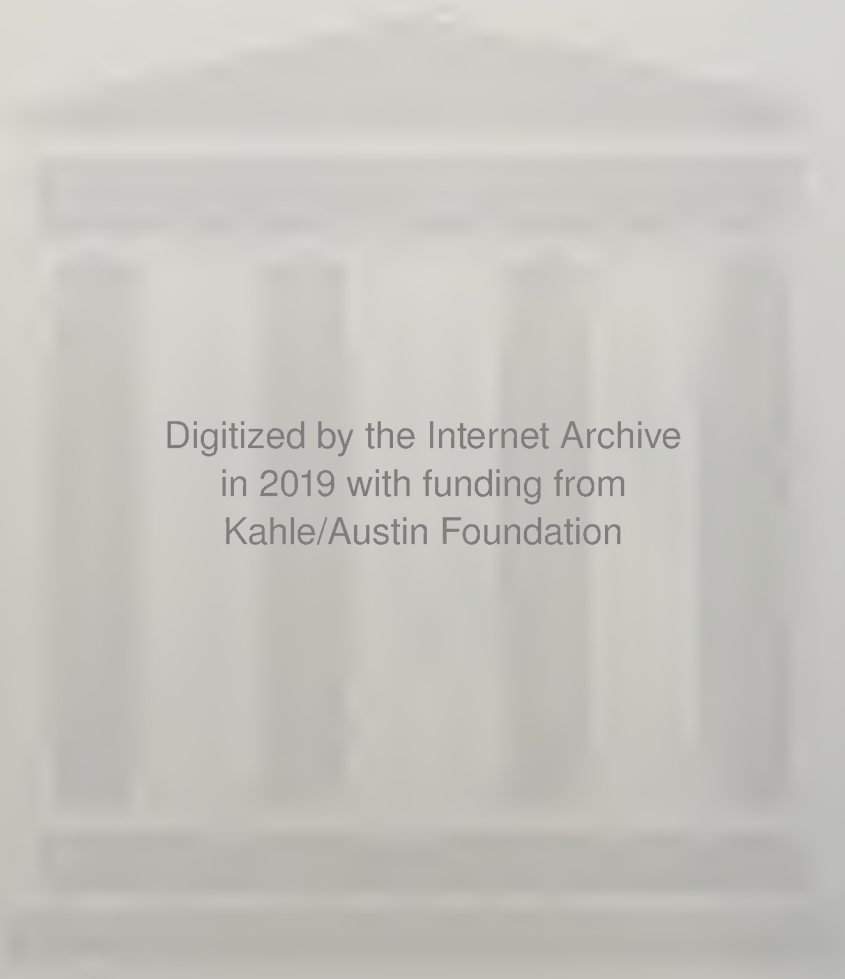
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VOLUME XIV.

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INTRODUCTION.

Governor Darling.

In the introduction to volume XIII, the principal incidents in the struggle between Governor Darling and the press prior to the year 1828 were detailed, and it was noted that, at the beginning of that year, public opinion was swaying in favour of Governor Darling and against his critics. Probably R. Wardell and E. S. Hall, the editors of the *Australian* and *Monitor* newspapers, realised this change of opinion, and, during the first half of the year 1828, the press was generally more moderate in its criticism of the government and the officials.

At the end of June, 1828, Robert Wardell, LL.D., who was Darling's principal and most accomplished critic, sold his interest in the *Australian* newspaper, and devoted himself to his practise at the bar which was extensive and lucrative. The business and copyright of the *Australian* newspaper, which had attained a circulation of six hundred for each bi-weekly issue, was sold for £3,600 to a syndicate of eight persons, who included the seven licensed auctioneers in Sydney. The new editor was Attwell Edwin Hayes, and the printer Samuel Kemp. In the first issue under the new management, the editor stated that the policy of the paper would be unaltered, and its columns would be available for the publication of free criticism.

In the year 1828, the first conviction was obtained for a libel on a public official in the colony. In July, E. S. Hall claimed possession of a pew in the church of St. James at Sydney, a claim which was denied by the Reverend T. H. Scott as archdeacon. Strong measures were adopted by both parties to the dispute. By orders of Scott, the door of the pew was locked; but Hall climbed into the pew, and, forcing the lock, opened the door to admit his family. Scott, thereupon, caused the pew to be boarded over to prevent the occurrence of a similar incident. Hall was prosecuted* for

* *See* note 118.

trespass on this pew. In connection with this case, Hall published an article in the *Monitor* newspaper, in which he severely criticised the ecclesiastical administration of Scott as archdeacon. On this article, he was prosecuted for criminal libel. The trial was held on the 29th of September, and Hall was found guilty and entered into recognizances to appear for judgment when called upon.

Governor Darling was determined to use all his powers to restrain the opposition press and the persons connected with it. In October, 1828, a government notice* was published, announcing that the unoccupied lands adjacent to any land grant would be leased to the grantee on his application, until such lands were required by the government for other purposes. E. S. Hall applied† for permission to lease five thousand acres adjacent to his grant; but the application was refused by the colonial secretary, A. Macleay, under orders from Governor Darling. Thereupon Hall asked the reasons for the refusal, and was informed by Macleay that it was because he was the "Editor of the *Monitor*, the columns of which Paper bear ample testimony to your endeavours to disturb the tranquillity of the Colony, and to demoralise the community, by treating with disrespect and contempt the clergy and the Established Church, without referring to the instance of your recent conviction for a Libel on the Venerable Archdeacon." Immediately after receiving this reply, Hall moved in the supreme court, on the 1st of November, 1828, for a rule *nisi* calling on A. Macleay, the colonial secretary and official mouthpiece of Governor Darling, to show cause why a criminal information should not issue against him for his refusal to rent the land; but the court refused to grant such a rule. In a letter,‡ dated 17th November, 1828, Hall then appealed to the secretary of state. In a despatch,§ dated 6th November, 1829, Sir George Murray acknowledged the receipt of this letter, and supported Governor Darling's action "in refusing the gifts of the Colonial Government to a Person, convicted before the Supreme Court of a libel, which was expressly declared by the Judgment of that Court to have been '*indecent*,' '*scandalous*,' and '*emanating from personal*

* *See* note 156. † *See* pages 583 and 584. ‡ See page 579 *et seq.*
§ *See* volume XV.

motives,' more especially since I observe that his paper has continued, not less after his conviction than before it, to be the channel of the most unmeasured and unjustifiable attacks on the characters, both private and public, of numerous and respectable persons." When this despatch was received in the colony, it was considered to be a complete vindication of Darling's policy with regard to the granting of indulgences, and its contents were made known to Hall and deeply resented by him.

During the year 1829, the supreme court was principally occupied in the trial of libel actions and in motions connected therewith. Most of these actions were commenced *ex officio* by the attorney-general acting under the orders of Governor Darling, who was determined to suppress the licentious criticism.

On the 1st of January, the Reverend Ralph Mansfield was associated with Robert Howe as joint editor of the *Gazette*; but the association was brief, as Howe was drowned off Fort Denison in Port Jackson on the 29th of January. Notwithstanding the change of the editor, the policy of the *Gazette* was unaltered, and it continued to give unstinted support to Governor Darling and his administration.

On the 6th of January, E. S. Hall was called upon to receive judgment from Mr. Justice Dowling for his conviction in the previous September for the criminal libel on the Reverend T. H. Scott. As Scott did not press for a severe penalty, Hall was sentenced to pay a fine of twenty shillings, to enter into a personal recognizance of £500 to be of good behaviour for twelve months, and to be lodged in gaol until the fine was paid and the recognizance completed. In the issue of the *Monitor* newspaper published after this judgment, Hall announced by advertisement that he was prepared to sell the paper or a half share in the business, stating that it was impossible for him to bear the expenditure involved in legitimate criticism. The advertisement was repeated in several issues without a sale being effected.

On the 2nd of March, five informations for libel were filed by the attorney-general *ex officio,* all of which were probably initiated by the orders of Governor Darling.

During the month of April, Darling was successful in securing the conviction and imprisonment of the editors of both the opposition papers, the *Monitor* and the *Australian*. On the 10th of that month, Hall was found guilty of a seditious libel on Governor Darling in the issue of the *Monitor*, dated 22nd November, 1828. Hall had alleged that Darling had used unfair influence in the appointment of the jury at his trial* for criminal libel on the Reverend T. H. Scott on the 29th of September. On the 15th of April, 1829, Hall was again found guilty of a criminal libel on F. C. Crotty, the commandant at Port Macquarie. On the 20th of June, Hall was called upon to receive judgment on these two convictions; for his libel on Darling, he was sentenced to imprisonment for twelve months, and for his libel on Crotty to imprisonment for a further term of three months, the sentences to be cumulative.

On the 14th of April, A. E. Hayes, the editor of the *Australian* newspaper, was tried and found guilty of a seditious libel on Governor Darling published in January.† The libel was contained in one of three articles, which criticised the papers in the case of J. Sudds and P. Thompson as laid on the table of the house of commons,‡ and alleged that Darling had illegally commuted the punishment of the two soldiers. Hayes was sentenced to imprisonment for six months, and was ordered to pay a fine of £100, and to find recognizances for his good behaviour for three years, himself in £500, and two in £250 each.

Notwithstanding their confinement in gaol, the editors of the two opposition papers were still able to continue their editorial work and to write articles in criticism of the administration, which were the cause of more libel actions. W. C. Wentworth also gave consistent support to both Hall and Hayes, and Hall initiated a number of retaliatory actions.

In the meantime, a series of incidents happened, which involved the Reverend Ralph Mansfield, the editor of the *Gazette*, in a libel action.

When the impeachment§ of Governor Darling by W. C. Wentworth became known in the colony, it was most adversely criticised

* *See* notes 118 and 153.

† *See* note 176. ‡ *See* note 174. § *See* page 800 *et seq.*

and aroused the supporters of Darling to action. In consequence, an address was prepared and signed by over one hundred "landed proprietors and merchants." Care was taken to exclude any officer of the government or any emancipist from the signatories; but they included the most important people in the colony, such as A. Berry, E. Wollstonecraft, R. Campbell, R. Jones, A. B. Spark, John Macarthur, Hannibal Macarthur, W. Cox, T. Icely, G. Suttor and R. Lethbridge. W. C. Wentworth was at this date most unpopular with the conservative party; but the signatories to the address represented many grades, and the opinions expressed indicate the general feeling that the opponents of Governor Darling had exceeded the limits of legitimate opposition. The address* was presented to Darling on the 5th of July, and the "landed proprietors and merchants" stated that "although we have hitherto remained silent, yet it has been with deep regret that we have long observed every measure of your Excellency grossly vituperated by licentious public writers in a manner, calculated to inflame the minds of the lower orders of the community against your Excellency's Administration and to produce discontent and insubordination among the prisoners of the Crown, for no other purpose than to promote the interested views of such writers. As, however, we now find that charges against your Excellency have been forwarded to the Home Government in the form of an Impeachment, we can no longer refain from an expression of our sentiments." The reforms introduced by Governor Darling in the public departments were approved, and it was then stated, "we are convinced that every act of your Excellency's administration has emanated from the purest motives, and, in the particular case, upon which the Impeachment is founded, we feel confident that the measures adopted were not only judicious, but at that time imperative; and the result has been the most satisfactory. We deny that the political opinions, promulgated by the opposition journals, are those of the more intelligent classes of the community, or that these publications form any criterion by which the justness of your Excellency's measures can be appreciated." In acknowledging the address, Governor Darling stated, "The Press has undoubtedly indulged itself to a most licentious and criminal extent in its endeavours

 * *See* volume XV.

to degrade the Government and excite public discontent"; and he described the impeachment by W. C. Wentworth as "a gross and absurd compound of base and incredible calumnies."

This address and the reply were published in the issue of the *Gazette* dated 7th July, and, in a leading article, the editor praised the authors of the address and severely denounced the editors of the opposition papers. W. C. Wentworth naturally resented this public reception of his impeachment, associated with Darling's criticism of "base and incredible calumnies." As the impeachment was then *sub judice*, he knew that the criticism was contrary to English usage; and, Darling being exempt from prosecution within his own government, he commenced action against the Reverend Ralph Mansfield for the publication of the address and reply in the *Gazette*. Accordingly, on the 30th of September, a rule *nisi* for a criminal information against Mansfield was granted on the motion of R. Wardell, and was made absolute on the 19th of December. On the 3rd of June, 1830, Mansfield was tried and found guilty, and, on the 30th of September following, was sentenced to pay a fine of £10 and to be imprisoned until the fine was paid.

Fourteen days after receiving judgment for his libels on Darling and Crotty, Hall published in the issue of the *Monitor*, dated 4th July, 1829, an article, in which he alleged that A. Macleay, the colonial secretary, had wrongfully altered a date on a paper in the case of Jane New.* The paper was a report from J. Burnett, the colonial secretary at Hobart town, in which a date was palpably erroneous. Accordingly, on the 1st of September, 1829, a rule was granted by the supreme court for a criminal information against Hall for libel on Macleay.

On the same day, rules were granted for criminal informations against Hall for a libel reflecting on the character and conduct of F. A. Hely, the principal superintendent of convicts, and for a libel on James Laidley, the head of the commissariat, in connection with certain tenders for salt pork, contained in issues of the *Monitor*, dated 6th and 20th June. At trials in the supreme court

* *See* page 762 *et seq.* and despatch dated 29th June, 1829, in volume XV.

on the 21st of December following, Hall was found guilty of criminal libels on Governor Darling and F. A. Hely, and, on the 24th, of criminal libels on J. Laidley and A. Macleay. Judgment in these trials was given on the 6th and 13th of March, 1830; for the libel on Laidley, Hall was sentenced to imprisonment for six months; on Darling, nine months; on Macleay, six months; and on Hely, one month; these sentences to be cumulative and to commence after the expiration of the sentences Hall was then serving in gaol. The punishment for the libel on Hely was small, because there had been a delay of six months in commencing action.

Whilst these prosecutions were proceeding, on the 19th of December, 1829, a motion was granted by the supreme court to estreat the recognizance of £500 given by E. S. Hall to be of good behaviour for twelve months following the judgment in his trial for libel on the Reverend T. H. Scott in the previous January.

During the year 1829, apart from the legal processes initiated against E. S. Hall and A. E. Hayes, Governor Darling used other and somewhat questionable methods to suppress the adverse criticism of his government. Darling maintained that he held the power to revoke the assignment of a convict to a private person at his own discretion. In March, 1829, orders were issued by direction of Darling, revoking the assignment of one convict each to Hall and Hayes. The convict assigned to Hayes was employed as a reporter, and the order was executed by his removal to the convicts' barracks when he was actually engaged in reporting a case at the supreme court. The convict assigned to Hall was employed as a foreman at the printing office of the *Monitor*. Such action by Darling was undoubtedly drastic and was adversely criticised* by Sir George Murray. Murray informed Darling that there was no necessity or reasonable cause for the revocation of the assignment of these convicts, and that the power of revocation was granted for the protection of the convicts themselves from improper treatment by their masters. Hall resisted the order for the revocation of the assignment of his convict, and he was cited to appear before a bench of magistrates consisting of F. N. Rossi, G. Bunn, E. Wollstonecraft and W. J. Brown on a charge of

* *See* despatch dated 8th November, 1830, in volume XV.

harbouring a prisoner of the crown illegally at large. Hall was convicted and sentenced to pay a fine. Hall thereupon appealed to the supreme court on the 27th of June, 1829, and the conviction was quashed, the judges ruling that the governor had no power to revoke the assignment of a convict. Three days later, Wentworth acting for Hall unsuccessfully moved for a criminal information against the magistrates for malicious conviction.

At the end of the year, the sentence of imprisonment passed on Hayes expired, but he was unable to pay the fine of £100. However, the money was raised by public subscription according to a letter, signed by Francis Stephen and C. D. Moore and published in the *Australian* of the 9th of January, 1830. Hayes was therefore liberated from gaol. In his reports,* Darling stated that F. Stephen was the supposed author of the libel for which Hayes was convicted, and Darling expressed the belief that the fine was paid by Stephen himself.

Notwithstanding the sentences of imprisonment passed on Hall and Hayes in June, 1829, Hall was convicted of four separate libels in December. Darling, therefore, introduced a bill to the legislative council to restrain the publication of libellous matter in the press. In reporting this bill to the under secretary of state,† Darling stated as reasons for introducing the bill that Hayes had been just liberated from gaol, and that Hall had "declared his determination of continuing his present course, having secured his Property and made up his mind to his being kept in Jail during the existence of the present Government." It must be remembered that Hall was allowed to write his articles whilst in gaol. The bill was passed by the council on the 29th of January, 1830, and was known as 11 Geo. IV, No. 1.

This act of council contained two most drastic clauses. It was entitled, "An Act to amend an Act, intituled, 'An Act for preventing the Mischiefs arising from the printing and publishing Newspapers and Papers of a like nature by persons not known, and for regulating the printing and publication of such Papers in other respects, and also for restraining the Abuses arising from

* *See* despatches in volumes XV and XVI.

† *See* despatch dated 20th January, 1830, in volume XV.

the publication of Blasphemous and Seditious Libels,' and for further restraining the Abuses arising from the publication of slanderous and libellous matter." The act,* 8 Geo. IV, No. 2, which was amended, had been passed on the 25th of April, 1827, and contained twenty-two sections. The new act contained thirteen sections. The first four sections defined printers of newspapers; provided for guardians or agents for proprietors or printers of newspapers, who might be under legal age; ordered that the names of agents should be inserted in the imprint; and defined evidence of publication. Sections five to eight regulated the recognizances and sureties necessary before publication. Section nine repealed sections twenty and twenty-one in the recited act, and enacted, "*Persons twice convicted of blasphemous or seditious Libels to be banished and not to publish newspapers until expiration of sentence,*" and section ten, "*Persons banished, returning or not departing, to be imprisoned until sent from the Colony.*" The last three sections defined a newspaper; detailed the appropriation of fines; and enacted that the provisions of the act should be in force seven days after publication in the *Sydney Gazette*, and should remain in force for two years.

The drastic provisions in sections nine and ten, although in accordance with the then existing law in England, raised a storm of protest from Hall and Hayes, and, in the issue of the *Monitor*, dated 12th January, 1830, Hall published a petition to parliament against the bill. In the *Gazette*, however, Mansfield endorsed it and stated that drastic measures were necessary.

The protests had no immediate effect, and the act came into operation in the colony. Governor Darling transmitted a copy of the bill to England with a despatch, dated 4th February, 1830. This despatch was unnoticed by Sir George Murray; but, when Viscount Goderich succeeded Murray at the colonial office, he, in a despatch dated 6th January, 1831, disallowed the act, and ordered Darling to "enforce the existing Law firmly but without harshness." The principal reason for disallowing the act was that "there is no little danger that, by too much eagerness in severely repressing the Attacks, to which it may be exposed, the Executive

* *See* note 70, volume XIII.

Government may most effectually promote the views of its enemies and aggravate the evil which it wishes to remove." This was the first colonial act actually disallowed by the English government; the stamp act, 8 Geo. IV, No. 3, was formally disallowed, but at the same time such disallowance was considered unnecessary as that act had been rescinded by government notice* before it became operative.

Before the arrival of the despatch from Viscount Goderich in the colony, Governor Darling had received a copy of the English statute passed in July, 1830, whereby the sections relating to banishment in a former English statute were repealed. When he received the despatch, Darling considered it would be inadvisable to publicly notify the disallowance of the act of council owing to the probable effect on the opposition press, especially as the act disallowed would automatically expire in January, 1832. To comply with Goderich's instructions, an act, 2 Wm. IV, No. 1, was passed on the 27th of September, 1831, whereby sections nine and ten of the act, 11 Geo. IV, No. 1, were repealed. At the same time, a notice was published that "the object of this Bill is to assimilate the Law of the Colony to the Law of England, and place them on the same footing with relation to each other, as they stood before the Act of Parliament recently passed, which has repealed so much of the previous Law of England as related to the sentence of Banishment on second conviction for Libel."

Further legislation at this period (1829–1830) had an important influence on the struggle between Governor Darling and the press, and enabled Hall to test his convictions before a judge and jury. By section eight of the constitution act,† 9 Geo. IV, c. lxxxiii, it was provided that trial by jury could be granted at the discretion of the court on application by either plaintiff or defendant, so soon as local acts of council were passed to regulate the constitution of the juries. The warrant for the new legislative council, constituted under the same act, was received in the colony in July, 1829, and, in October, 1829, and February, 1830, the acts of council, 10 Geo. IV, No. 8, and 11 Geo. IV, No. 2, were passed to regulate the constitution of juries.

* *See* page 392, volume XIII. † *See* page 260 *et seq.*

By the passing of the act of council, 11 Geo. IV, No. 1, Governor Darling controlled but did not suppress the unjustifiable criticism to which he and his government had been subjected. When the banishment clauses were repealed in September, 1831, a copy of the *London Gazette* had been received in the colony announcing the recall of Governor Darling and the appointment of major-general Richard Bourke as his successor on the 27th of April previous, and therefore there were no further opportunities or reasons for a renewal of the attacks.

The malicious criticism in the press of Governor Darling thus terminated in January, 1830, but during that year the passing of the jury acts gave Hall several opportunities of retaliation, which must be noted in conclusion of the story of the press at this epoch. On the 19th of May, Hall also wrote* to the secretary of state a letter containing fourteen specific accusations against Governor Darling.

On the 1st of March, 1830, he was granted juries in trials of actions for damages against F. N. Rossi and the magistrates who convicted him of harbouring a convict illegally at large; against F. A. Hely for withdrawing the same convict from his assignment to Hall; and against the Reverend Ralph Mansfield (1) for libel in the publication of the address to Governor Darling with the reply on the 7th of July, 1829, (2) for libel in the *Sydney Gazette* dated 31st December, 1829, and 5th January, 1830, in which it was alleged that Hall had connived at the assault committed on Governor Darling by a disappointed settler named Shelly, and (3) for libel in the *Sydney Gazette,* dated 19th of May, 1829, in commenting on the case of T. E. Wright at Norfolk island.

In four out of these five actions, Hall was successful. On the 15th of March, he was awarded £10 damages against Rossi and the magistrates, and £25 damages against F. A. Hely. On the 1st of April, in the first action against Mansfield, he was awarded 40s. damages; on the 2nd of April, in the second action, £50 damages; and on the 3rd of April, in the third action, a verdict was given for the defendant.

* *See* volume XV.

On the 6th of April, Hall brought an action against the Reverend T. H. Scott for his ejectment from the pew in St. James' church. It was also tried before a jury, and Hall was awarded damages of £25.

On the 27th of September, 1830, Hall was prosecuted for neglect to forward to the colonial secretary copies of the *Monitor* newspaper in February, 1830, in accordance with the act for the regulation of the press, and penalties amounting to £200 were claimed. The prosecution resulted in a verdict for the defendant.

On the proclamation of the accession of William IV on the 6th of November, 1830, Hall was released from gaol by Governor Darling and his uncompleted sentences were remitted. Notwithstanding the prosecutions which Hall had initiated against the *Sydney Gazette*, the editor, the Reverend R. Mansfield, warmly congratulated him on his release.

The struggle between Governor Darling and his critics in the opposition press may thus be said to have terminated in an act of magnanimity by the governor in the release of Hall. As has been noted,* it is probable that the prime motive of the excessive criticism during the administration of Governor Darling was not the actions of Darling the individual, but of Darling the figure-head of the English cabinet who had given instructions to introduce much-needed reforms in the colony, which reforms were not sufficiently advanced to meet the views of the radical party in the colony.

It is now necessary to consider the changes in the details of administration introduced during the government of New South Wales by R. Darling. The administrations of his two immediate predecessors, Governor Macquarie and Sir Thomas Brisbane, had failed in some vital points, and reforms were urgently required. Macquarie had governed as an autocrat, and all the machinery of government had centred in himself. He regarded the judges and the principal civil officials as members of a staff, and expected them to wait on him daily for instructions, as staff officers in the army would wait on their general. The centralisation of all the business of administration in one man was impossible, as the colony developed and expanded. Macquarie had been succeeded

* *See* introduction to volume XIII.

by Sir Thomas Brisbane. Brisbane was a cultured man of science, and was averse to all the minor details of administration, which Macquarie had personally controlled. He therefore left many of the details entirely in the hands of his officials, especially the colonial secretary. Unfortunately he was not supported by able assistants; and, at the conclusion of his administration, the routine in the public offices was chaotic, and there was little of that essential co-ordination which was necessary for good government.

Reforms were urgently required, and Darling was appointed governor with instructions to introduce them. Owing to his training, Darling was perhaps the wrong man to have chosen for the duty. His long experience as a military staff officer had accustomed him to the precise forms of military administration, and, when he reorganised the civil departments in the colony, he erred somewhat in the multiplicity of forms, checks and counter-checks, introduced as part of the daily routine in the public offices. From the semi-chaos of the last years of Sir Thomas Brisbane's administration, there was a rapid change to an excess of "red tape."

A capable military administrator does not always make a successful civil one. During part of Darling's government, the duke of Wellington was prime minister of England, and, to quote the words of the right hon. W. Huskisson, "neither is it to be expected that the example of Government at home will lead such men as your Governor to put less confidence in his own ability to superintendent and direct the whole administration, judicial, civil and financial, of New South Wales." In principle, most of the reforms introduced by Darling were excellent; but he diminished their chance of success by following military precedent in surrounding them with an excess of routine details.

When he arrived in the colony, Darling carried his commission and instructions, by which an executive council was appointed consisting of the lieut.-governor, the chief justice, the archdeacon and the colonial secretary, and he was ordered generally to act by and with the advice of this council. In April, 1827, the office of lieut.-governor was abolished,* and "the Officer next in command to the

* *See* page 242, volume XIII.

Commander of the Forces" was appointed a member of this council. In August, 1828, the chief justice and all future judges were excluded from the council* on general principles. In addition to the appointment of the executive council, Darling was also advised by Earl Bathurst, before he left England, to appoint† a "Land Board for your assistance, to whom you may refer Applications for Grants of Land, and from whom you may receive Reports on the various Claims of the different Applicants."

Soon after his arrival in the colony, Darling appointed the lieut.-governor, the colonial auditor and J. T. Campbell, formerly secretary to Governor Macquarie, as members of the land board, to whom he delegated also the duty of reporting on applications for assigned servants. About the same time, owing to "the total disorganisation of the Departments and indeed every branch of the Government," and the necessity for assistance "generally in the arrangements and details of the different Public Establishments," Darling appointed a second board, which he called the "Board for General Purposes." The members of this board were the lieut.-governor, the colonial secretary, the chairman of the quarter sessions, the clerk of the council, the colonial auditor, the deputy commissary-general, and J. T. Campbell. The appointment of this board marked the beginning of the system of government by boards, which was characteristic of Darling's administration. The system was fully justified in principle, for, as the colony was growing and expanding, it was no longer possible for one man, the governor, to inquire into all the details necessary before giving a decision. The system, however, failed somewhat in practice, because some of the members, notably the colonial secretary and the auditor, found it impossible to administer their own departments and to attend meetings of the board without causing delay in public business. In illustration of this point the following statement‡ by Darling may be quoted:—"The Office Hours in the Colonial Secretary's Office are from Nine to Six; during which period, Nine Hours, the Clerks are all closely employed. The Public Boards, at which the secretary usually presides, meet at *Six* in the morning."

* *See* page 366. † *See* page 20, volume XII. ‡ *See* page 692, volume XII.

During his administration, Governor Darling systematically reorganised each public department, and in all matters of detail members of the board for general purposes were employed in the necessary inquiries. In each department, the staff was reorganised, a fixed establishment was created, and the employment of convicts and emancipists as clerks was abolished as far as possible; systematic methods were introduced; and a routine with proper forms and records was established for its dealings with the public.

In July, 1827, Viscount Goderich gave instructions* for the introduction of a radical change in the finances of the colony. It was decided to abolish the practise of an annual vote by parliament for the salaries of the civil establishment of the colony, and thereafter to divide the expenditure into two sections. The first section included all expenditure incurred in the civil administration of the colony and the second that incurred in the maintenance and control of the convicts. The first section was ordered to be defrayed by the revenues of the colony and the second by bills drawn on the English treasury as formerly. The introduction of this broad principle involved many modifications in the colonial administration and many sittings of boards to determine the items of expenditure which should be classified as incurred in the maintenance and control of the convicts. It was an important step in the progress of the colony. It logically led to the passing of appropriation bills,† and developed the sense of individual responsibility in the government of the colony.

Apart from his general reforms in matters of detail and organisation in the departments, Governor Darling initiated and developed three notable changes.

Early in the year 1826, he appointed an inspector of roads and bridges. The roads of the colony had previously been under the control of the engineer. Darling organised a special department, which was instrumental in improving and developing the means of

* *See* page 470 *et seq.*, volume XIII.

† The first bill was passed on the 21st of March, 1832, under Governor Bourke.

communication in the interior of the colony. In May, 1829, however, Sir George Murray ordered* that the administration of the roads and bridges should be controlled by the surveyor-general.

Prior to the year 1827, the customs duties at Sydney had been collected by an officer known as the "naval officer," who also had a general control over the shipping in the harbour of Port Jackson. The administration of the department of this officer had been very lax; and, when John Piper became a defaulter† at the end of the year 1826, there was a shortage of £17,000 in the funds of his department. Piper was immediately suspended, a customs department was organised, and a collector, a controller, a searcher and a keeper of the bonded stores were appointed. Full instructions were given by Darling to the collector and controller. This reorganisation was immediately followed by a large accession of revenue. The change, however, was not effected without opposition by the merchants, resulting in the usual attacks on the governor. This opposition was due to the introduction of business methods into the department, and the necessary compliance of the merchants with such methods.

In the year 1828, Governor Darling thoroughly reorganised the post-office and established an inland post. This great reform, so necessary for the progress of the colony, was initiated after an inquiry by a board‡ consisting of the colonial secretary, the auditor and James Busby.

Apart from these three notable changes and the general reorganisation of the departments, one further introduction of systematic methods must be noted. Prior to the arrival of Governor Darling, the assignment of convicts to colonists as servants was one of the great powers of patronage possessed by a governor. By a series of government orders and notices, viz., thirteen in the year 1826, six in 1827, two in 1828, two in 1830, and two in 1831, Governor Darling created a code of regulations for the assignment of such convicts, which code remained in force for many years. By these regulations, the assignment was virtually made by a board appointed for the purpose, and, except in special cases, the governor's approval was merely formal.

* *See* page 793. † *See* page 245 *et seq.*, volume XIII.
‡ *See* page 447 *et seq.*

In July, 1828, the English statute, 9 Geo. IV, c. lxxxiii, was passed "to provide for the administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto." The great changes, introduced in the legislative council and the judicial system in the colony by this statute, are noted in the introduction to volume XV, together with an account of the important changes in the administration of the lands during Darling's government.

FREDK. WATSON.

June, 1922.

DESPATCHES.

HISTORICAL RECORDS
OF
AUSTRALIA.

SERIES I.

LETTERS INTRODUCING SETTLERS.*

Letters introducing settlers.

DURING the year 1828, letters introducing settlers were written by different officials to Governor Darling with dates as under:—

Date of Letter.	Written by	Name of settler.
1st January .	R. W. Hay	Commander Geo. King (*n*).
7th January .	E. G. Stanley ...	James Thompson.
7th January .	do ...	E. H. Cliffe.
9th January .	do ...	— and — Bell.
9th January .	do ...	Lieut. John Hampden Edwards (*a*).
9th January .	do ...	Major B. Sullivan (*a*).
14th January .	do ...	Captain A. Chambre (*a*).
6th February	R. W. Hay	Francis I. Moylan.
21st February	F. Leveson Gower	William Pratt.
28th February	do ..	— Peltrick.
6th March ..	do ..	Captain John Spotswood.
7th March ..	do ..	— and — Forlong.
14th March ..	R. W. Hay	Charles Henderson.
17th March ..	F. Leveson Gower	Joseph Henry Moore.
18th March ..	W. Huskisson ..	George Mackenzie.
25th March ..	F. Leveson Gower	Charles Henderson.
27th March ..	do ..	Morris Townsend.
30th March ..	do ..	Lieut. George Blake.
31st March ..	do ..	Lieut. A. Turner.
3rd April ...	R. W. Hay	— Dick.
9th April ...	F. Leveson Gower	Robert Lambert.
14th April ...	do ..	Lieut. Redmond Moriarty.
25th April ...	do ..	Com'r Wm. Moriarty.
28th April ...	do ..	Edmund Docker.
29th April ...	do ..	Lieut. Merion M. Moriarty.
10th May	do ..	John E. Turner.
11th May	R. W. Hay	— Rae.
20th May	F. Leveson Gower	— Myers.
24th May	do ..	Thomas Kent.
29th May	R. W. Hay	John Onge.
30th May	do	Henry Douglass.
2nd June ...	Horace Twiss ..	Captain Henry Dixon.
5th June ...	R. W. Hay	Lieut. Arthur Davies.

 * Note 1.

1828.

Letters introducing settlers.

LETTERS introducing Settlers—*continued.*

Date of Letter.	Written by	Name of settler.
11th June ...	Horace Twiss ..	John Turner.
21st June ...	R. W. Hay	James Scott.
24th June ...	Horace Twiss ..	John Onge.
28th June ...	do ..	Lieut. — Forde.
2nd July	G. Murray	Thomas Peel.
9th July	Horace Twiss ..	William Wynter.
10th July	G. Murray	Charles Matcham.
11th July	Horace Twiss ..	Lieut. Geo. Robson.
11th July	do ..	Michael Hyam.
14th July	R. W. Hay	Captain Rancland.
26th July	do	Mr. Lambie.
5th August ..	Horace Twiss ..	John and Richard Proctor.
9th August ..	do ..	Lieut. Wm. Caswell.
— August ..	do ..	Duncan Mackellar.
12th August ..	do ..	Capt. W. A. Steel.
2nd September	do ..	Capt. J. Rancland.
7th September	do ..	Capt. P. McLaine.
23rd September	do ..	— Stubbs.
23rd September	do ..	Capt. Wm. Dumaresq.
23rd September	do ..	Capt. C. M. Christian.
23rd September	do ..	Lieut. F. Whitfield.
22nd October .	do ..	Lieut. M. Mitchell.
24th October .	do ..	John Ferres.
18th November	R. W. Hay	W. R. Davidson.
1st December	Horace Twiss ..	— Maye.
13th December	do ..	Lieut. John Lamb.
15th December	R. W. Hay	John Cole.
15th December	do	— Balcombe, jr.
16th December	do	— Dumaut.

The settlers marked (*n*) and (*a*) were formerly officers of the navy and army respectively, who proceeded to the colony under the conditions of the admiralty circular, dated 11th August, 1827, and the army orders, dated 24th August, 1827 (*see* page 596, volume XIII).

ASSIGNMENTS OF CONVICTS.*

Letters transmitting assignments of convicts.

DURING the year 1828, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were written by the under secretary of state to Governor Darling, with dates as under:—

Date of letter.	Ship's name.	No. of Convicts.
16th February ..	Mermaid	99 Female.
5th March	Phœnix	190 Male.
24th March	Bussorah Merchant ..	170 ,,
30th April	Countess of Harcourt	185 ,,
30th May	Albion	192 ,,
11th June	Competitor	99 Female.
26th June	Eliza	158 Male.
28th June	Marquis of Hastings .	178 ,,
22nd August	Royal George	160 ,,
29th August	Vittoria	160 ,,
7th November .	Princess Royal	100 Female.
15th November .	Lord Melville	170 Male.

* Note 1.

GOVERNOR DARLING TO THE SECRETARY OF STATE. 1828.

THE following despatches,* written in the year 1828, have been omitted:— Despatches omitted.

Despatch dated	numbered	Transmitting
1st January	..	series of *Sydney Gazette* from 2nd July to 31st December, 1827.
16th February	.	do from 21st December, 1827, to 15th February, 1828.
10th March	31	minutes of executive council for half-year ending 31st December, 1827.
10th March	32	returns of sentences by courts of sessions, January to June, 1827.
14th March	36	thirty-three applications from convicts for passages for their families.
21st June	86	monthly returns of troops for January, February, and March, 1828.
27th July	87	returns of sentences by courts of sessions, July to December, 1827.
1st August	92	minutes of executive council for half-year to June, 1828.
30th August	110	returns of sentences by courts of sessions, January to June, 1828.
30th August	111	monthly returns of troops for April, May and June, 1828.
1st September	..	series of *Sydney Gazette* from 23rd June to 1st September, 1828.
6th September	116	rules and regulations for the conduct of business in the supreme court.
16th December	140	monthly returns of troops for July, August and September, 1828.
22nd December	141	rules and regulations for the conduct of business in the supreme court.

GOVERNOR DARLING TO THE UNDER SECRETARY OF STATE.

THE following despatches,* written in the year 1828, have been omitted:—

Despatch dated	Transmitting
1st January	series of *Sydney Gazette, Australian, Monitor* and *Gleaner* newspapers.
10th January	quarterly returns for 1827 of seventy-four expirees, who cleared at port of Sydney.
11th January	report from colonial botanist on botanical garden.
12th January	return of state of crime and punishment in the year 1827.
14th February	observations at Parramatta observatory by C. S. Rumker.
16th February	series of newspapers.
14th August	observations at Parramatta observatory by C. S. Rumker.

LORD FRANCIS LEVESON GOWER TO GOVERNOR DARLING.†

Sir, Downing Street, 1st March, 1828. 1 March.

I am directed by Mr. Secretary Huskisson to transmit to you the accompanying Copy of a Letter from Mr. Gregory Blaxland, in which he represents the difficulties, with which he has had to contend in endeavouring to establish Salt Works in New South Wales, and solicits a larger Grant of such land as may Request for land grant and permission to mine for coal.

* Note 2. † Note 3.

1828.
1 March.

be suitable to his purpose, with the permission of working Coals and of disposing of the finer sort, which is not required in his works, and I am to desire that you will afford Mr. Blaxland every reasonable facility and assistance, in carrying his project into execution. I have, &c.,

Request for land grant and permission to mine for coal.

F. Leveson Gower.

[Enclosure.]

Mr. G. Blaxland to Right Hon. W. Huskisson.

Sir, 75 Old Broad St., 13th Decr., 1827.

Salt works established on Parramatta river;

Soon after my brother and myself were settled in the Colony of New South Wales, we established a salt works of considerable magnitude on the Parramatta River, which works were brought to perfection during my brother's absence from the Colony at the time he returned to England, when the whole of the business was left under my management.

Since the expiration of our partnership I established salt works on the harbour nearer the sea for the manufactory of fine salt which on a small scale answers well; but, being limitted for fuel at the spot where they were situated, I applied to the Governor, Sir Thos. Brisbane, for a grant of land for the purpose of removing them, and received an order for twenty acres, but not being able to find a spot in the harbour, which I considered eligible, I removed them to New Castle where from circumstances, at this time unnecessary to explain, I could only get a grant of one acre of land, on which I have expended a very considerable sum of money, upwards of £1,500, including every expence; but, from the situation being too much exposed to the sea, and from not being permitted to work the coals on the spot or near it, but compelled to purchase them from Government, I find from my son's letter that it does not answer and unless I receive further encouragement from Government I shall be a loser of upwards of £1,000.

and at Newcastle.

As I consider it will not be necessary to enforce in this instance the advantage the inhabitants must of necessity derive from a manufactory of fine salt being established in the Colony, I rest my claim on the expences I have myself incurred in the undertaking, and the loss my family must sustain unless my request is complied with, under which consideration I have to request that I may receive a large grant of land in any situation more eligible for the purpose and that I may be permitted to work the coals myself, and to sell the best for general purposes, using only the inferior for the making of salt.

Request for land grant and permission to mine for coal.

Since my arrival in England I have mentioned the case to Colonel Dumaresq, His Excellency Governor Darling's private Secretary, who considers my claim reasonable, more particularly

as a competition in the coal trade was considered desirable, and I beg leave to refer you to that Gentleman for any further information that you may require on the subject. 1828. 1 March.

I have, &c.,
GREGORY BLAXLAND.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 25, per ship Orelia; acknowledged by Sir George Murray, 12th November, 1828.)

Sir, Government House, 1st Mareh, 1828.

I have the honor to aequaint you that I have appointed Mr. Sydney Stephen, Barrister at Law, to Aet as Solicitor General, until the arrival of Mr. Sampson, Mr. Foster, who held the temporary appointment until lately, having Signified that his duties as Commissioner of the Courts of Requests and Chairman of the Courts of Quarter Sessions, which frequently eall him to distant parts of the Country, prevented his paying the necessary attention to any other duty. S. Stephen appointed acting solicitor-general.

I have, &e.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch marked "Private and eonfidential," per ship Orelia; acknowledged by Sir George Murray, 30th August, 1828.)

Sir, Sydney, 1st Mareh, 1828.

I take the liberty, as the subjeet is of mueh importanee, to request your attention in this manner to the new Bill* to be brought into Parliament for the permanent administration of Justice and the more effectual Government of these Colonies. New bill for government of colony.

I have explained, Sir, ineidentally in my "Remarks" on Chief Justice Forbes Letter† to you of the 26th Ultimo, how the draft of the Bill, whieh he prepared in 1826, had been transmitted home without having been communieated to me or my having seen a Copy of it for a period of two months after. Neglect of F. Forbes to submit criticism to R. Darling.

I put up with this want of respect, from a desire to prevent as long as possible any misunderstanding with the Members of the Government.

I was so much oecupied by the affair of *Sudds* and *Thompson* that it was not in my power to pay the neeessary attention to a matter of so mueh importanee; though I confess I could not avoid perceiving that Mr. Forbes's object appeared to be to divest the Executive, and place as much additional power as possible in the hands of the Judicial body.

You may be assured that, eomposed as this Colony is, the Executive does not possess a particle too much power at present.

* Note 4. † Note 5.

1828. 1 March.

The Laws of England were not made for Convicts; and a Conviet Population requires more coercion than those Laws sanction, excited and supported too as these people have been.

Interpretation of laws *re* convicts by F. Forbes.

You will perceive, Sir, by Mr. Forbes's interpretation of the Laws (several references having been made Home) that he considers the established practices with regard to the Convicts to be illegal. He maintains, contrary to the opinion of Mr. Peel, under whose direction the Act* of 4th Geo. 4th, Ch. 84 was framed, that the Government has not the power to make conditional assignments or grant Tickets of Leave.

I have stated, if the Law should be acted on according to Mr. Forbes's interpretation, the consequences would be of a most serious nature. The Conviets must be subjeet to the control of the Government, whether assigned or not. If they should not be subject to it, the bad characters would soon be at large, preying on the Public.

Objections to increased powers for judiciary.

I have adverted to this, merely to shew the inconvenience which may be, and in fact has been felt, from leaving important points undefined, and that it will be better not to add to the powers which the Judges already possess in this respect. All men like power, and it may be very convenient to a person of Mr. Forbes's Character to be entrusted with the interpretation of the Laws. I therefore take the liberty of recommending, whoever the Judges may be, that their power may not be extended.

Remarks on N.S.W. bill as submitted to parliament.

I am very unwilling to intrude on your time, which I am sure must be fully occupied. I will therefore only further request your attention to a Paper containing some "Remarks" on the Bill,† submitted to Parliament in the month of May last, which accompanied my private Letter to Mr. Hay of the 17th of December.

Omission in new bill of reference to courts of sessions and requests.

I have adverted, in Paragraph No. 7 of the "Remarks," to the circumstance of the omission in the New Bill of the Courts of General and Quarter Sessions and the Courts of Requests. It could not I presume have been intended to do away the two former. With respect to the Courts of Requests, there is certainly a difference of opinion as to the necessity of continuing them. It has been stated that the duty of these Courts could be performed by the different Benches of Magistrates in the several districts at a trifling Expence. The Expence, however, in a matter of this nature is not perhaps the most important object. It is argued on the other hand that the Magistrates may not in all cases be the fittest persons to Judge in these matters, while sweeping away respectable offices, and assigning, as in some cases, the Duties to Clerks may appear very desirable to a Person

* Note 6. † Note 7.

of American principles and American feelings. This observation did not originate with me. 1828. 1 March.

My own opinion is that the utility of the office depends in a great measure on its being properly filled. I think a respectable Man, possessing a competent degree of legal knowledge, might be beneficially employed as Commissioner of the Courts of Requests, until the Country is better settled. In noticing these omissions, I should also mention that of the Office of Sheriff. I conclude they have all occurred through mistake. Omission of reference to sheriff.

I beg your attention to Paragraph No. 10 and to the *N.B.* at the conclusion of the "Remarks"* alluded to, the subject being important. The duties on Spirits, which at present form a principle portion of the Colonial Revenue, are applicable to the general purposes of the Government, and, if the Government be deprived of these duties, it would occasion very serious inconvenience. Duties on spirits.

I have, on a further Review of the Bill, been induced, Sir, to submit a few Memoranda for your consideration on points which, though of no great importance, are not I think undeserving attention. Transmission of further criticism.

I have stated that Mr. Forbes did not shew me the Copy of the Bill until I called on him to do so, two months after it had been sent Home; it is therefore unnecessary to say it was not produced with a good grace, and that it was not likely he would be very forward in pointing out the omissions or alterations proposed, or the effects which would result from them. Neglect of F. Forbes to submit his criticism.

Having, Sir, drawn your attention to the Bill, I must request it also to the Draft of the new Charter, which I am led to suppose, by Mr. Forbes's Letter to you of the 26th Ultimo, has been sent Home. I need not add that it should be carefully examined before it is adopted, so as to guard against any undue powers being given to the Courts, and to see that the rights and prerogatives of the Crown are not impaired by it. Proposed new charter of justice.

It has been suggested to me to look into Rules of the Supreme Court, which regulate the duties of the officers and other persons of that Court, it being thought that the arrangements are not altogether consistent with the general practice, most of the duties, which are understood as belonging to the Registrar for example, being assigned to the Clerks. Duties of officers of supreme court.

I am aware, Sir, you must feel some surprise that I had not communicated with the Law Officers of the Government on such points as this, and more especially on the subject of the new Bill. Circumstances have prevented it, and my situation has in consequence been very embarrassing. I have never yet had an Attorney General whose judgement I could depend on, or whose Disabilities experienced from want of competent attorney-general.

* Note 7.

1828. 1 March.

Disabilities experienced from want of competent attorney-general.

advice I could look to with confidence. Besides, the want of a good understanding between Mr. Forbes and Mr. Bannister was fatal to whatever the latter proposed; and, although I always considered Mr. Bannister an upright conscientious Man, the apparent eccentricity of his mind and his want of experience in his profession prevented my depending on his Counsel, as I should gladly have done on that of a sound, practical Lawyer.

My situation in this respect is in fact much worse at present. Mr. Baxter is a person without any experience, deficient in the ordinary legal acquirements, and without talents. Conceive then, Sir, how I am situated, being opposed to such a Chief Justice as Mr. Forbes, who is aware there is no one to whom I can resort for legal advice. The Attorney General, in my humble opinion, ought to be a man of such professional character, as, when he presented himself in Court, would command the respect of the Bar and the attention of the Bench. Without meaning to insinuate anything in the slightest degree personally injurious to Mr. Baxter, I may say he is not a Man of this class, and I am satisfied he is fully sensible of his own deficiency, though he does not possess sufficient energy or application to correct it.

If Mr. Sampson, the Solicitor General, should be the same description of Person, unable to afford effectual support to the Government, it will be impossible to contend, with any hope of success, against such Men as Wentworth and Wardle, and it would be injudicious to attempt it, as it would only expose the weakness of the Government.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Criticism of proposed N.S.W. bill.

Memoranda on certain parts of the Bill,* laid before Parliament in the Month of May, 1827, for the Government of New South Wales.

Power of courts in penal settlements.

See Page 5, No. 1. New Courts are authorised in the Penal Settlements.

There appears some confusion in this Clause. These Courts are to have Jurisdiction in cases of Life and Death. Why then the Provision that, in cases where the offence is not Punishable with Death, the Judges are to adjudge any Corporal Punishment, not extending to Life or Limb? Again It appears that such Courts could not order a Prisoner to be flogged, until The Governor's approbation should be obtained; and yet, as the Law now stands, a single Justice of the Peace can do this.

Method for establishment of trial by jury.

Page 6, Line 30, No. 2. The Governor of New South Wales and Van Diemen's Land is mentioned, probably by mistake. The Governments are distinct. It would appear that the extending of Juries is to be left to the Governor and Council. It would,

* Note 4.

1828.
1 March.

I think, be more convenient to the Local Government if this power were vested in His Majesty, who could receive the opinion of the Governor and Council (Executive or Legislative as might be thought proper) on the subject. This would, I think, relieve the Local Government from importunity, while in fact the adoption of the measure would depend on its recommendation.

Criticism of proposed N.S.W. bill.

No. 3. It may be necessary to consider the Form of Oath taken by the Members of Council; according to Chief Justice Forbes's Interpretation, nothing that passes in Council can be communicated to The Governor, or any Member who may happen to be absent. If this be a correct view, it may lead to very inconvenient consequences. As the Governor, who does not Continue in Council, after laying the Bill or Bills before it which he may have to submit, could only be informed of the result, without knowing the views of the Members, or the ground of their refusal, if the Council declined assenting.

Form of oath for members of council.

No. 4. I have reported on former occasions that Mr. Forbes has expressed an opinion that the Governor has not the power to send a Convict to a *Penal Settlement* of his own authority; very serious inconvenience has and must result from this; and I humbly submit the Governor ought to have the power. If he abuses it, he is responsible, as he is for any act of Tyranny or Oppression. Chief Justice Peddar thinks the Governor has the Power, and that Opinion is acted on at Van Diemen's Land.

Power of governor over convicts.

No. 5. I beg to refer to the omission in the New Bill of the latter part of the 24th Section* of the present Act, 4th Geo. 4, Chap. 96, and that I am individually anxious for the Power which it conveys. But it might be useful, and any thing like an appearance of withdrawing the confidence of His Majesty's Government from the Local Authorities might have a bad effect. If I recollect Mr. Forbes's reason for the omission, it was that it had never, that is in the course of two Years and a Half, been found necessary for The Governor to avail himself of the Powers alluded to. R.D.

Procedure in legislation.

[Enclosure No. 2.]

[*A copy of the rules of the supreme court, dated 22nd June, 1825, will be found in a volume in series IV.*]

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 17, per ship Bussora Merchant; acknowledged by Governor Darling, 9th August, 1828.)

Sir, Downing Street, 3rd March, 1828. 3 March.

An Application having been made to the Admiralty by the Honble. Capt. Rous of His Majesty's Ship Rainbow for the usual allowance, on account of your entertainment during your

Passages for governor in ships of war.

* Note 8.

1828. 3 March. Passages for governor in ships of war.

passage to Moreton Bay, I think it proper to explain to you that you will be only justified in availing yourself of this mode of conveyance under circumstances of the most pressing emergency; and that the fullest information must in that case be immediately sent home, in order that His Majesty's Government may have the means of deciding whether such passage should be provided for at the Public Expense. I have, &c.,

W. Huskisson.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 26, per ship Orelia; acknowledged by Sir George Murray, 12th November, 1828.)

4 March. Additional clerk in supreme court.

Sir, Government House, 4th March, 1828.

I do myself the honor to report to you that, on the representation of the Chief Justice, a Copy of whose Letter is herewith enclosed, I have authorised the issue of a Salary of £200 a Year for an additional Clerk, whom he considers necessary in consequence of the increase of Business in the Supreme Court.

I have, &c.,

Ra. Darling.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 3d March, 1828.

In consequence of the increase of Business in the Supreme Court, it has become necessary to provide an additional Clerk. And, as the duties he will have to perform require previous knowledge and skill, I have to recommend that a Salary of two hundred Pounds per Annum be allowed in lieu of Fees. As the appointment is pressing, I must request Your Excellency's attention to this Letter as early as possible. I have, &c.,

Francis Forbes.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 18, per ship Bussora Merchant.)

5 March. Approval of purchase of brig *Governor Phillip*.

Sir, Downing Street, 5th March, 1828.

I have had under my consideration your Dispatch of the 19th May, 1827, which informs me that the pressure of Public Service has induced you to incur an expenditure of £1,200 in the purchase of the Brig "Governor Philip."

I see no reason to doubt the validity of the reasons which induced you to authorize the said Expenditure; and I shall report my opinion accordingly to the Lords Commissioners of His Majesty's Treasury.

In a subsequent part of your Dispatch, you state that you consider yourself to be restrained by the Instructions* of the Lords Commissioners of His Majesty's Treasury from meeting

* Note 9.

1828.
5 March.

urgent and necessary expenditure, in cases which must, from time to time, occur: and that the circumstances of such cases must "render it impossible to comply with the Instructions, without defeating the object they are intended to effect." Upon reference to the Instructions issued by the Treasury, dated 13th June, 1826, and upon Communication with the Lords Commissioners, I feel assured that you must have taken a view of these Instructions which is not justified by their contents. I think that you cannot have given due consideration to the 37th Section of these Instructions. It recites that "If, however, any case should occur, in which, without a previous reference for a regular authority, for incurring any contingent charge above £200, you should be induced to authorize the same, you will report, in the fullest manner to the Lords Commissioners of His Majesty's Treasury and to the Secretary of State by the first opportunity, the grounds upon which you felt it necessary to incur the Expenditure."

Instructions from treasury *re* expenditure by governor.

I shall here quote from a Communication addressed to me on this subject by the Secretary to the Treasury the following observation:—"The necessity, thus imposed on the Governors to make these special Reports, will probably operate upon them to transmit Estimates of proposed Works in all possible cases, and will also induce them to use great caution in sanctioning Works not previously estimated for and authorized."

I deem it unnecessary to add any further observations to the reference which I have made to the Instructions of the Lords Commissioners of the Treasury, except to express my opinion that they contain nothing in their Letter or spirit which can throw impediment in the way of urgent and necessary Expenditure. The Governor must be responsible for due estimation at the time, and subsequent explanation of the circumstances, which, in his opinion, constitute that urgency and necessity.

I have, &c.,
W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 27. per ship Orelia.)

Sir, Government House, 5th March, 1828.

I do myself the honor to transmit herewith, agreeably to the intention expressed in my Despatch No. 18, dated the 16th of last Month, "a General Abstract of the Revenue and Resources of the Colony, and the appropriation of the same, for the three last Years, ending the 31st of December, 1827." The Statement contained in the Abstract, which I had the honor to transmit with my Despatch above referred to, was confined to the

Abstract of revenue and expenditure.

1828.
5 March.

Abstract of revenue and expenditure.

Revenue and Resources of the Colony, received and paid through the Medium of the Colonial Treasurer. That, now transmitted, is intended to exhibit the whole of the Actual Receipts within the Colony and of their Appropriation, whether the same took place through the Medium of the Colonial Treasury or the Commissariat, including as well the Funds derived from Bills drawn by the Deputy Commissary General on His Majesty's Treasury for general purposes, as the Amount of those drawn by the same Officer on the Colonial Agent for the payment of the Sums, Voted by Parliament towards defraying the expences of the Civil Establishment in the Years 1825 and 1826. With the exception therefore of the Expences incurred in the purchase of Stores, and of such provisions as were forwarded from England, the General Abstract now transmitted comprises the whole Public Expenditure for the Service of the Colony during the three Years ended 31st December last.

Payments in lieu of rations.

It will be perceived that the Amount of the Expenditure, under Several of the Heads of the accompanying Abstract, differs from the Amount of the same Heads, as Stated in the former Abstract. This difference arises from the Sums paid by the Commissariat for Rations or Allowances in lieu thereof, and of sums, paid out of the Parliamentary Grants to several of the Departments, having been added in the accompanying General Abstract to the Amount of the Expences of the same Departments paid out of the Colonial Revenue; whereas, the latter Expences only were included in the former Statement.

Expenditure on provisions and stores.

The Provisions and Stores being purchased without reference to the respective Establishments to which they are ultimately applied, and being brought to account generally before this can be known, it will be seen that, before the exact proportion of Expences incurred for the Several Services can be Separately Stated, it becomes requisite to ascertain the quantities supplied to each, and to Compute the value at the average Cost price.

Owing to the mode in which the Commissariat accounts have, until recently, been arranged, it appears that, even were it practicable, the exact quantities of Provisions and Supplies, issued to the several Departments for the last three years, could not with exactitude be ascertained unless by a tedious and laborious process, which would unavoidably occasion a very inconvenient interruption to the Current Business, and that, in Consequence, the Apportionment of the Cost of Provisions and Stores under the Heads, "Maintenance of Convicts," "Rations to the Military," and "Public Works," in the accompanying Abstract, is to be considered not the Actual, but the estimated Amount of such Expences under these respective Heads.

1828. 5 March.

As the Aggregate Expense, however, is stated to be correct, the want of Minute accuracy in the Apportionment will not probably be attended with any material inconvenience, particularly after the explanation which has been given.

Causes of increase of expenditure:

The encrease in the general Expenditure of the Year 1827 over that of the two former Years was occasioned as follows:—

1st. By the Augmentation in some of the Establishments, which was found absolutely necessary to render them efficient.

2dly. By the discontinuance of the practice of sending out Supplies of Salt Provisions for the Troops and Convicts, which it became necessary to replace by the purchase of Meat cured in the Colony.

3dly. By the greater Number of Convicts who arrived in the course of this than in the two proceeding Years.

4thly. By the formation of *four* New Settlements:—Melville Island, Fort Wellington, King George's Sound, Western Port, the Supplying and Keeping up the Communication with which occasioned considerable Expense both in the purchase of Vessels and Stores.

and of exceeding estimates.

It will be perceived that the total Expenditure for last Year exceeds the Amount of the Estimates for the Current Year, forwarded in my Despatch of the 8th January last, No. 6 (Enclosures No. 2 and 3). But as the Expences of the Male and Female Orphan Institutions and other Schools were not included in that Estimate, nor the Cost of about Six Months' Supply of Salt Meat for the current Year, which had been purchased and paid for in the Year 1827 (and is included in the Expenditure of that Year), the accuracy of the Estimate alluded to may be considered as pretty well established by the Amount of the Actual Expenditure of the Year 1827.

Reasons for omission of details.

It would, I am aware Sir, have been desirable to have furnished a Statement of the Expenditure of the Colony in more full and ample detail than that now transmitted; but the time, that must have elapsed before such a detailed account could possibly have been prepared, would most probably have prevented its being received until too late to answer the purpose for which it is required. I have therefore thought it better to forward the Statement in its present form, more particularly as the Blue Book for the last Year, which is transmitted by this opportunity, and those Books for the two preceding years will probably supply such further information as may be desired.

I have, &c.,
Ra. Darling.

[Enclosure.]

[*A copy of this abstract will be found in a volume in series II.*]

1828.
5 March.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch marked "Private," per ship Orelia.)

My dear Sir, Sydney, 5th March, 1828.

Criticism of proposed N.S.W. bill.

I beg your attention to a Letter, which I have written by this opportunity to Mr. Huskisson, respecting the new Bill for the Government of this Colony. I have taken the liberty to request he will refer to the "Remarks,"* which accompanied the Letter, I addressed to you in December last on this subject; and I beg to enclose for your information the Copy of a Paper containing a few Memoranda, which accompanies my letter to Mr. Huskisson, and may be deserving consideration when the Bill is again brought forward.

Additional clerk for supreme court.

You will see by the official correspondence that Mr. Forbes has required the appointment of another Clerk, in consequence of the increase of business in the Supreme Court. I have of course authorised it, tho' I have reason to doubt the necessity of employing an additional Clerk. The fact is that Mr. Forbes pays very little attention to the business of the Courts at present, and that his own time and that of the Clerks is occupied in preparing and copying his Letters and Statements. It is very unpleasant to me to notice these matters, and I only do so from feeling how much the Despatch of the public Business is interrupted in consequence. For some time past, I have been totally engaged in the controversy† respecting the Registrar; and you will recollect it is not long since I had occasion to refer a similar correspondence† on the subject of my appointing a Solicitor General. He may perhaps now find leisure for this sort of indulgence, tho' I apprehend his own business suffers, just as much as that which I have to conduct. I have, &c.,

Criticism of F. Forbes.

RA. DARLING.

[Enclosure.]

[*This was a copy of the enclosure to the private despatch to right hon. W. Huskisson, dated 1st March, 1828; see pages 8 and 9.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Orelia.)

My dear Sir, Sydney, 5th March, 1828.

Despatches acknowledged.

I will not close my Despatches without acknowledging your private Letters of the 13th of June, and two others dated the 19th July, for which I am much obliged as they contain information on certain points, which are very interesting. I am not aware it is necessary to take up your time further on the subject to which they refer at present. The fate of my efforts to carry Lord Bathurst's Instructions into effect respecting the

* Note 7. † Note 10.

Press are before you, or I rather hope have been disposed of. I do not mean to urge the Arrangements* respecting the Civil Service. They were suggested at your desire and did not originate with me. I think you will see, by my last communication on this subject, that in fact *no* expense would be incurred by the Arrangement. I can answer your enquiry respecting the cultivation of *Tobacco* and the *Sugar Cane* very satisfactorily. Both are successfully cultivated and an experiment is now making of the *Tea* Plant in the Botanical Garden, which being only of recent date, it is not possible to pronounce on its success at present. It, however, promises to do well, and in time may come to perfection. As soon as Port Macquarie is thrown open to Settlers, I have no doubt some of them will cultivate the Sugar Cane. Government has had an Establishment there, and the Canes grow as well as possible; but the want of the necessary Machinery, and perhaps the unskilfulness of the Superintendant, rendered our exertions to make Sugar abortive. For my own part, I did not regret it; matters of this nature are much better in the hands of Individuals, and the fact has been established that the Cane can be produced within two degrees of this, which is the material point.

1828. 5 March.

Reform of civil service.

Experiments in acclimatisation.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 28, per ship Orelia; acknowledged by Sir George Murray, 12th November, 1828.)

Sir, Government House, 6th March, 1828.

6 March.

Having experienced considerable difficulty in procuring Surgeons† for Melville Island and the Settlement of Fort Wellington on the present occasion, I take leave to suggest that a couple of Hospital Assistants might be beneficially stationed here, if the Several Settlements on the Coast are to be Continued. Having failed in my endeavours to induce any of the Surgeons of the Navy to Undertake the Services alluded to, I have been Under the necessity of detaching the Assistant Surgeon of the 39 Regt. to Fort Wellington, to whom I have been induced Under present circumstances to grant an Allowance of 10s. a day, as he will have to attend the Marines and Convicts at that Settlement in addition to the Men of his own Corps.

Difficulty in procuring surgeons for north Australia.

I have fortunately obtained the Services of a Dr. Sherwin, a private Practitioner, for the Settlement at Melville Island, who will receive a Guinea a day and his Rations, the same as his Predecessor, the late Mr. Gould; and I beg, Sir, to recommend that the Commandant at Fort Wellington may be allowed *£300*

* Note 11. † Note 12.

1828. 6 March.

Salary for commandant at Fort Wellington.

Hospital assistants proposed on staff.

a year from the date of his Appointment, the same as the Commandant at Melville Island, the Service on which he is employed being of a very arduous nature, and being Subjected to Considerable Expense in obtaining at so remote a Station such Supplies as he may require.

There are thirteen Surgeons employed at present in the Civil Service. If two Hospital Assistants were stationed here, they could be advantageously transferred on any emergency occurring, such as the present; and Sir James McGregor would not I presume find any difficulty in selecting proper Individuals for this purpose.

I have, &c.,

RA. DARLING.

LORD FRANCIS LEVESON GOWER TO GOVERNOR DARLING.*

7 March.

Sir, Downing Street, 7th March, 1828.

Recommendations for land grants.

I am directed by Mr. Secretary Huskisson to transmit to you the enclosed Copies of a Letter from Sir Thomas Brisbane and of the Memorial therein referred to from Mr. Furlong, in explanation of the views, with which the two Sons of the latter Gentleman are about to proceed to New South Wales; and I am to desire that you will make to each of these Individuals a Grant of Land, in proportion to the Capital which they may respectively possess, and afford them such reasonable facilities in furtherance of their objects, as may not be contrary to established Regulations, or interfere with the just pretensions of other Individuals.

I have, &c.,

F. L. GOWER.

[Enclosure.]

MR. JOHN FORLONG TO RIGHT HON. W. HUSKISSON.

Sir, Glasgow, 1st March, 1828.

Request for land grants for W. and A. Forlong.

Having lost several of a fine Family by Consumption after they had grown up, I determined to give two sons remaining to me, William and Andrew, a transition to a warmer climate, and to reconcile their pursuits in life to residing there for a length of time.

To this end, adopting the best lights afforded me and exercising the most anxious deliberation, I preferred to attach them for life to the Soil of New South Wales as Agricultural Emigrants, and to educate them accordingly.

Having before me the Capabilities of this Colony for the growth of Fine Wool, and attracted by the difference of the Selling prices of this article from all Countries, I perceived that the wool of the Electorate of Saxony sold in the proportion of Eight to Six higher than the other best Wools of Germany, half as much higher than the best produce of New South Wales, at twice the price of Spanish, four times that of English Merino, and Eight times that of English Common Wool; while the difference of value over the lowest qualities of New South Wales or Van Dieman's Land wool was not to be named.

* Note 3.

1828.
7 March.

To arrive at the Causes of this Superiority, and to command it for my Sons and their prospectively adopted Country seemed altogether essential, so I sent them to live in Saxony, for the purpose of acquiring the Sorting and Stapling of fine wools, and along with that the knowledge and management of fine woolled Sheep.

Request for land grants for W. and A. Forlong.

From a Jealousy natural to the Subject, they encountered many difficulties; but my eldest Son at length got himself placed in one of the First Sorting houses for the English Market in Germany, where he has continued to work as a Common Workman, and is now considered master of the business of Wool Stapling, viewed as a Craft.

In the initiation into the management of fine woolled Sheep, they entered at once, and not only without obstruction but with patronage, and embraced the fruits of exemplary industry and perseverance in an open pursuit.

I am at length desirous of making their attainments useful, and of procuring for them Grants of Land in New South Wales, corresponding to the means they may possess on arrival there.

They will carry with them at the least One Hundred Rams and Ewes selected with great circumspection from the best flocks in the Electorate, and a breed of Ayrshire dairy Cows, with a Capital sufficient to put themselves in immediate movement.

Whether you may be pleased to deem them entitled to an increased Grant, from the expence that has attended their preparation for the Colony, or the benefit their information and example may be presumed to render it, I humbly and respectfully leave to your own just consideration.

In whatever way this may be viewed, I hope you will pardon me for suggesting that their assignments to land may be given as speedily after arrival as possible, as a delay at Sidney may prove irreparably injurious.

Lieutenant General Sir Thomas M. Brisbane having condescended to transmit this letter, I very respectfully take leave to refer you to him; and trusting you will find an excuse for the tediousness of it in your own distinguished patriotism or in the feelings of a Parent eager to preserve a small but noble remnant.

I have, &c.,
JOHN FORLONG.

[Snb-enclosure.]

[*A copy of the memorial is not available.*]

GOVERNOR DARLING TO MR. E. BARNARD.

(Despatch per ship Orelia.)

Sir, Government House, 7th March, 1828.

Transmission of requisitions.

In pursuance of the Secretary of State's Despatch, dated 13th May, 1827, No. 4, I do myself the honor to transmit the accompanying abstract of Requisitions for stationery and stores, which will be required for the use of the Colonial Government during the ensuing year.

I also enclose a Copy of the Report of a Board appointed to examine the Estimates furnished by the several Departments of the Government, and I must request your particular attention to

1828. 7 March. the paragraph, in which the Board remark on the damaged state of the Books lately received in consequence of their having been packed up before they were perfectly dry.

I have, &c.,

RA. DARLING.

[Enclosures.]

[*These requisitions and the report have been omitted.*]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 29, per ship Orelia; acknowledged by Sir George Murray, 3rd January, 1829.)

Sir, Government House, 7th March, 1828.

Transmission of requisitions. I do myself the honor in reference to my Despatch No. 7, dated the 12th January last, to forward the Annual Requisitions for the Stores and Supplies* generally required for the Service of this Government for the ensuing Year.

Being desirous of giving every possible effect to the Instructions of Viscount Goderich, as conveyed in his Lordship's Despatch No. 4, of the 13th of May last, I assembled a Board, composed of experienced Officers, in Order that the Subject might receive the fullest consideration; and I now do myself the honor, Sir, to transmit for your information the accompanying Copy of an official Memorandum, transmitting the Report of the Proceedings of the Board, together with the following Requisitions, "Vizt.":—

No. 1. Requisitions for Tools, Clothing and Stores for the use of the Convict Departments.

No. 2. Ditto for the use of the Military Departments.

No. 3. Requisition for Stationary for the use of the Convict Departments.

No. 4. Requisition for Stationary for the use of the Military Departments.

You will observe, Sir, that the Board has entered in a detailed manner into the Subject of the several Requisitions, and I have much Satisfaction in perceiving that they accord in the opinions which I felt it my duty to express in my former Despatch on this Subject.

I am not aware, Sir, that I can afford any further information than that which is given by the Board in the report. I shall therefore abstain from trespassing unnecessarily on your time.

I have, &c.

R. DARLING.

P.S.—The Requisitions* for "Colonial Purposes" have been forwarded by the present opportunity, as directed by Viscount Goderich, to the Colonial Agent. R.D.

* Note 13.

[Enclosure No. 1.]

1828.
7 March.

MEMORANDUM No. 81.

Submission of requisitions to board.

IN conformity with the Instructions contained in His Excellency the Governor's Minute of the 6th Ultimo, directing the Deputy Commissary General, the Collector of Internal Revenues, and the Deputy Assistant Commissary General of Accounts to assemble for the purpose of revising the General Requisitions for Stores and Stationary required for the use of the several Civil, Military, and Convict Establishments in the Colony of New South Wales for the Year 1828 and compiled in the Commissariat Office,

The Deputy Commissary General does himself the honor of submitting herewith the following Documents:—

Requisitions for Stationary.—For the Civil, Military, and Convict Establishments.

Requisition for Stores.—For the Civil, Military, and Convict Establishments.

Requisition for Stores procurable in the Colony, accompanied by a Report thereon, drawn up by the Board in conformity with His Excellency's desire.

Commissariat Office, Sydney, 5th March, 1828.

JAMES LAIDLEY, D.C.G.

[Enclosure No. 2.]

Report by board on requisitions.

PROCEEDINGS of a Board, appointed by His Excellency the Governor to examine and revise, preparatory to their transmission to England, the Abstracts of Estimates of Stores and Stationery required by the Colonial Convict and Military Establishments in New South Wales for the year 1828.

The Board, having examined the Estimates for Stationery, are of opinion that it would be inexpedient to recommend any reduction in the quantity or alteration in the nature of the various Articles included in them, ignorant as they are of the internal details of the different offices for which they are required. Some of the Estimates indeed seem to exceed the bounds which an economical expenditure would require; but, when the distance of this Colony from the Sources of Supply and the difficulty and expense of making up deficiencies are considered, they conceive it to be more desirable that a Surplus quantity of such articles, as will not be injured by keeping, should remain in Store than that the local Government should have recourse in any degree to the expensive and uncertain measure of procuring Supplies in the Colony by Tender; and as the issue of Stationery after its arrival in the Colony is under the control of the Governor, and is only drawn as required by the different departments from the General Store upon requisitions bearing his approval, the excess of one Estimate may compensate for the deficiency of another, or may obviate the inconvenience arising from delays in the arrival of future Supplies.

As a precaution against the Shipment of Books immediately after being bound, the Board take this opportunity to remark that, while the rest of the stationery lately received was in perfectly good condition, they have learned that many of the Books are unserviceable from having been packed damp from the hands of the Binder.

1828.
7 March.

Report by board on requisitions.

With regard to the probable correctness of the Estimates for Tools and Implements required for the various Trades, and the Stores for the works upon which the Tradesmen are employed, the Board feel that they are unqualified from their own knowledge to give more than a general opinion that there appears to be nothing in them exhorbitant or disproportionate to the wants of a Colony in circumstances such as this.

After having examined the Estimates of each Department, they have found no difficulty in Separating the Articles they contain, according to the instructions conveyed in Lord Goderich's Dispatch, into those required for *Colonial* purposes for *Convicts* and for the *Military*; for each of which Departments a distinct Abstract is prepared.

Those Articles, which appear of an indistructible or durable nature, and which on that account are not likely to be again speedily required, are enumerated separately at the end of the several Abstracts; but the Board observe that the quantities of such Articles are so limited as not to require any remark from them, with the exception of those contained in the requisitions of the Surveyor General and Mineral Surveyor, Viz., Mathematical Instruments and Iron Pipes, and which it appears were included in former requisitions, and are only repeated in these because they have not yet arrived in the Colony, and not because *additional* Supplies are required of them. The Board had also endeavoured, as far as was practicable, to obtain the information required by His Lordship relative to "the number of Persons employed in the several Trades for whose Use the Tools are required, upon what Works they are employed, and how the produce of their labor is disposed of," but from the nature and diversity of the Works in progress throughout the Colony, especially under the department of the Civil Engineer, they should conceive it difficult, if not impracticable, to furnish all the particulars required. Captain Dumaresq has however furnished a detailed Statement of the Trades and the Stations where the Tradesmen are employed: and the Board will content themselves with remarking that they seem to be chiefly engaged in providing the requisite accommodation for the various Public Departments lately organised in the Colony, and in the repair of such Public Works and Buildings as from the deficiencies of construction, incident to most undertakings in the early Stages of the colony, require to be repaired or renewed.

This remark seems also to apply to the Stores required for the use of the same department, and the expenditure of the labor and materials must therefore be considered as realised in the Buildings and other Public Works, and consequently as adding to the Value of the Public Property in the Colony. They are considered in the agregate by the Civil Engineer to be justly chargeable in equal proportions to Colonial and convict purposes.

In other Establishments where the labor of the Tradesmen is of a more uniform character, it is more easy to state how it's produce is disposed of. It appears, by the Estimate of the Principal Superintendent of Convicts, that 26 Tailors are at present employed in Hyde Park Barracks in making up Clothing from Cloth manufactured at the Female Factory at Parramatta, and 23 Shoemakers in making Shoes from Colonial Leather for the consumption of the

1828.
7 March.

Report by board on requisitions.

convicts in the Service of Government. In the Female Factory at Parramatta, from 100 to 150 Women are employed in Spinning Coarse Wool, in the manufacture of which into Cloth from 11 to 15 Looms are constantly at work, producing about 30,000 yards annually.

In the Establishment called Carters Barracks in Sydney,

1 Carpenter	with	12	Convict Boys	as apprentices.	
1 Shoemaker	,,	12	do	do	
1 Stonecutter	,,	12	do	do	
1 Blacksmith	,,	5	do	do	
1 Tailor	,,	4	do	do	
1 Harnessmaker	,,	10	do	do	
1 Cooper	,,	4	do	do	and
1 Ropemaker	,,	7	do	do	

are employed in there respective Trades, the produce of their labor according to its nature being sent to the Public Stores, and issued for the use of the convicts, or being applied to the Public Works and to the general use of the Establishment itself.

In the Penal Settlement of Port Macquarie, from 40 to 50 Mechanics are employed in Boat Building or in subserviency to the agricultural Establishments, the produce of which is applied to the support of Convicts in Government employ; and in the other Settlements, from which no returns have been received, various Mechanics requiring Tools are employed in similar occupations. The surplus produce, should any exist after the wants of the Settlement are supplied, being shipped for the subsistance of the convicts at Sydney.

The number of Mechanics employed in the Dock Yard amounts on an average to 35; and their labor is expended in the repairs of the Vessels necessary for carrying Convicts and Stores to and from the various Penal Settlements.

As a general observation, the Board would remark that, in the various Government Farms and Stations, Mechanics requiring Tools and Implements are employed in the repairs of Carts, Harness, Implements, etc., of whom no regular returns have been received, and whose labor, as well as the consumption of the Tools and Stores used by them, must be considered as part of the expense of these Establishments, which are supported for the purposes of Police as well as for the maintenance and employment of convicts, and the supply of Public Works with working Cattle and the Food for their Support.

Many of the Officers furnishing these Estimates have stated the quantity of Tools and Stores remaining on hand; and the Board in these cases have brought forward the nett remains, but they have not thought it adviseable to bring forward, in the General Abstract, the general remains of the Stores on hand, as all those for the Service of 1827 have not yet arrived; and they are unable to form an Estimate of the reduction, which might be made in the requisitions by the Board of Ordnance, when reference was made as directed by the Lords of the Treasury to the former Supplies sent by them. They have also to observe that, though the Estimates are for 1828, they can only arrive in time for 1829; a Circumstance which, from the irregularity in transmitting Supplies which

1828.
7 March.

Report by board on requisitions.

has hitherto existed, must render a Statement of Stores remaining on hand too fallacious to allow of its being safely acted upon under existing Circumstances.

It will be observed in several Cases, particularly in Estimates of Clothing, that the Articles required by the different Establishments have been omitted in the General Abstracts, as having been included in some other more General Estimate; and that, in consequence of the arrangements recently established by His Excellency the Governor for the Clothing of Convicts maintained by Government, only a part of the Estimate of the Principal Superintendent of Convicts appears in the Abstract.

As the number of convicts maintained by Government averages about 5,000, the following quantity of Clothing will be required:— 10,000 Frocks; 10,000 Shirts; 10,000 Pairs of Trowsers; 10,000 Pairs of Shoes; 5,000 Scotch Caps; of which it will be desirable that all the Shirts and Scotch Caps, 5,000 pairs of duck Trowsers, and the *materials* for all the Shoes should be sent from England, but that the Jailors in Hyde Park Barracks should make all the Frocks and 5,000 pairs of Trowsers of Factory Cloth; and the Shoemakers in the same Establishment should make up all the Shoes, the Materials for each pair being put up separately previously to their being sent from England to prevent the frauds which would otherwise be practised.

The Board are of opinion that the Clothing for the mounted Police should be sent out ready made, instead of the materials as required in the Estimate, and have entered them in the abstract accordingly.

In conclusion, the Board have to express their regret that, from the want of more ample data, they are unable in a more detailed manner to conform to the instructions of Viscount Goderich's dispatch and Mr. Herries' Letter, transmitted for their guidance in revising the Abstracts and Estimates; and to express their opinion notwithstanding that the diversity of articles required and the uncertain and varying wants of such a Colony as this will always make it an undertaking of some difficulty; that, when the system of transmitting annual Estimates to England shall have been for two or three years in operation, it will be possible to reduce them to such a degree of approximate correctness, as to answer every useful purpose; more particularly when it is considered that the Stores and Implements on their arrival in the Colony are still retained in the general Magazines and only issued for specific purposes under the sanction of His Excellency the Governor.

The Board, having nearly closed their proceedings, found on reference to the Civil Engineer that, in forming his Estimate for Stores and Materials, that Officer had only provided for the contingent and casual demand made upon his Department, without reference to the demands for new Buildings which it might be found expedient to erect. They have therefore added a Supplement to the General Abstract which includes the average quantity of Stores and Materials consumed in previous Years, and which will remain in the General Store to meet such demands.

JAMES LAIDLEY, D.C.G.
GEO. TH. MADDOX, D.A.C.G. of Accounts.
JAMES BUSBY, Coll. Int. Rev.

Sydney, New South Wales, 4th March, 1828.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 30, per ship Orelia.)

1828.
7 March.

Sir, Government House, 7th March, 1828.

Proposal to recall company of royal staff corps;

I do myself the honor of bringing under your Notice the inexpediency of continuing the Company of the Royal Staff Corps in this Command, the object of their employment here having entirely failed.

The intention, which was acted on for some time, was to place the Men of this Company as Overseers with the Convicts employed on the Roads. But the Officers assure me it is impossible to prevent an intimate association between them, and Idleness with its usual consequences result from it. Besides, the Military Character suffers, which, with reference to the Convict Population, it is so important should be upheld in this Community.

The duties of an Overseer on the Roads is no doubt irksome, if not laborious. These Men are almost constantly out, and an Overseer of the Staff Corps has in fact nothing to gain, while he is exposed to the Arts of the Most insiduous Miscreants, who consider it an object to induce him to neglect his duty. The whole of the Men of the Staff Corps have in consequence been discontinued as Overseers.

The Convict Overseer on the other hand has much to hope from attention to his duty. They feel this, and are generally very strict, and are besides more Competent to the charge, being aware of the Characters they have to deal with.

and to disband veteran companies.

The failure of the Employment of the Veteran Companies is attributable to the same cause. I have already taken the liberty to suggest the expediency of disbanding these Companies; and I now feel it my duty to state that the discontinuance of the Veteran Companies and the Company of the Royal Staff Corps on the Colonial Establishment would produce a saving of about *£12,000* a year, which under present Circumstances would be of some importance.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 33, per ship Eliza.)

Sir, Government House, 11th March, 1828. 11 March.

Transmission of volumes of acts and ordinances.

Conceiving it may be convenient to you as a Means of immediate reference, to be in possession of the Public Acts and Orders of this Government, I do myself the honor to forward herewith two Volumes* containing,

The Proclamations, Acts in Council, Government Orders and Government Notices

which have been issued since the date of my assuming the

* Note 14.

1828. 11 March. Administration of this Government the 20th of December, 1825, to the end of the last Year 1827.

I propose, Sir, transmitting for your information at the end of each Succeeding Year, a Separate Volume Containing Copies of all Similar Documents which may be published in this Government.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 34, per ship Eliza.)

12 March. Arrival of J. Sampson.

Sir, Government House, 12th March, 1828.

I have the honor to report for your information that Mr. Sampson, Solicitor General, has arrived and assumed the Duties of his office.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 35, per ship Eliza; acknowledged by Sir George Murray, 25th October, 1828.)

13 March. House provided for Sir J. Brisbane and family.

Sir, Government House, 13th March, 1828.

Perceiving by a Letter, which I have received from Mr. Hay, dated the 27th July last, that I had Conveyed an erroneous impression with respect to the House* provided for the accommodation of the late Sir James Brisbane, I beg to assure you, Sir, that, had I engaged the House for the Ladies of his family, I never should have thought of Charging the Rent to the Public. I merely meant to convey that the delapidated state of the Government House, and the very limited accommodation it afforded, had prevented my receiving Sir James Brisbane and his Family, conceiving, as the House I occupied was so unsuitable as a Government House, that it would shew that the Expense was not altogether unnecessary. I also intimated to Mr. Hay that, previous to my arrival, it had been the practice to allow the Captains of the Navy lodging Money. I had discontinued this Allowance. But, when Sir James Brisbane sent to inform me he was recommended to live on Shore, and wished to know whether the Government would provide him with a House, I confess I thought it better to comply with the wishes of an Officer whose recent exertions in the public Service had brought him to the brink of the Grave, rather than risk any ground of dissatisfaction or unpleasant feeling between the two Services.

This, Sir, is a faithful Statement of the Case, which I have been induced to bring under Your Notice, not so much with a view of being relieved from the disallowance, as to shew that the Course I pursued in this case was conformable to the existing practice previous to my arrival.

* Note 15.

1828.
13 March.

Endeavours to effect economy.

Without meaning to Claim any undue Merit, I might add that I have not failed to check every unnecessary Expense. The attempt is never agrecable to the parties interested who seldom submit with complaceney to any diminution of the advantages they have enjoyed, and their good fecling towards the Instrument of any such Measure is perhaps invariably weakened.

I confess, Sir, I have in Consequence sometimes hesitated whether I should discharge my duty more advantageously to the Government by effecting a trifling saving rather than by preserving the good will of those who would complain and be rendered discontented by the loss. My desire is to obey implicitly the Orders I receive, and, being informed of the wishes of His Majesty's Government, you may be assured I shall not deviate from them.

I have, &c.,

Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 37. per ship Eliza; acknowledged by Sir George Murray. 12th December, 1828.)

Sir, Government House, 15th March, 1828.

15 March.

Objections to appointment of assistant surveyor as collector of quit rents.

I have the honor to acknowledge the receipt of Your Despatch No. 12, dated 9th November last, informing me that the arrangement, directed by the Earl Bathurst for the Collection of the Quit Rents by the Appointment of one of the Assistant Surveyors to that Situation, appeared more eligible on the ground of the presumed superior qualification of the Individual from the Nature of his previous employment, as well as on that of œconomy.

I had supposed on perusing Your Despatch, to which I have now the honor of replying, that I had not sufficiently explained the extent of the arrangements I had proposed with respect to the Duties to be performed by the Collector of Internal Revenue: But I perceive, on refering to my Despatch of the 7th of April last No. 47, that the Outline is correctly given; I have therefore only to bow, as I do with every possible deference, to the Opinion you have expressed on this Subject. But, as you Could not be aware, Sir, of the Serious derangement which would be occasioned by carrying the Orders you have been pleased to Convey to me into effect, until you were in possession of the Statements and other Documents relating to the Financial Arrangements of this Government, which accompanied my Despatches of the 1st November, 1827, No. 111, and of the 8th January, 1828, No. 6, I am anxious to avoid disturbing the existing arrangement, until you shall have had an opportunity of judging, by the Communications above referred to, whether it ought to be discontinued or whether the Superiority of the present System, affording

1828.
15 March.

Objections to appointment of assistant surveyor as collector of quit rents.

as it does the most effectual Check on the Collection of a large proportion of the Colonial Revenue, is not sufficient to justify its continuance, particularly when supported as it is on the ground of economy.

In order, Sir, that you may be fully informed of the effect of the existing arrangement in a pecuniary point of view, I shall take the liberty of stating, and I trust of satisfying you that it does not entail any additional Expense on the Public.

The Salary and Allowances of an Assistant Surveyor (supposing one to be appointed as directed) amount to £300 per annum. This officer's place in the Survey Department would necessarily require to be filled up; and he could not possibly collect the Quit Rents and other rents of land together with Monies becoming due on account of the Sales of Land (which will be seen by the accompanying Copy of a Statement, transmitted with my Despatch No. 6, dated the 8th January, 1828, are to no inconsiderable Amount) without the assistance of a Clerk, whose Salary on the lowest Scale would be £150, making the Expense of the Collection of this Individual Branch of the Internal Revenue £450 a year.

The Salary of the Collector of Internal Revenue, whose duty it is to receive *all* Monies falling due to the Government, which are not receivable by the Collector of Customs, was fixed at £500 a year; and comparing it with the Salary of the Surveyor of Distilleries, who receives £400 a year, and has Comparatively little to do, it was considered to be fixed at the lowest possible rate. In addition to this, an Expense of £150 a year for a Clerk has been incurred, making the total Expense of the Internal Revenue Department *£650*. But, in order to meet this Expense, one of the Clerks of the Treasury Office has been discontinued, it being considered that the transfer of so considerable a portion of the business, as has taken place, to the Department of Internal Revenue, will admit without inconvenience of that diminution. The Saving occasioned by this is £270 a year, so that in fact the Actual Expense of the Department of Internal Revenue is only *£380*; while the arrangement directed by Earl Bathurst's Despatch would occasion an Expense of £450 a year, without possessing the same advantages as that which has been adopted. I have not made an allowance for the discontinuance of the Treasury Clerk under the Arrangement proposed in Earl Bathurst's Despatch, as it would be impossible to withdraw a Clerk from that Office, unless the Treasury be relieved from the whole of the Business at present transacted by the Collector of Internal Revenue.

I have, &c.,

RA. DARLING.

[Enclosure.]

1828, 15 March.

STATEMENT of the Outstanding Debts now due, or which will become payable to the Government in the Course of the Year 1828.

Debts due to government.

Particulars.	Amount. £	s.	d.
Promissory Notes for the Purchase of Lands	42,760	1	2
Promissory Notes for the Purchase of Live Stock with Interest	10,543	18	11½
Promissory Notes for the Purchase of other Government Property	1,782	10	0
Rents of Lands	396	16	8
Quit Rents	5,765	4	6½
Tolls Lettings	1,919	3	1
Ferries Lettings	125	0	0
Market Dues Lettings	1,025	3	2
Auctions Duties	52	11	0½
Coals sold	685	18	11¼
Fees and Fines of Magisterial Courts	175	7	3
Rentals of Buildings	498	15	11½
Loans with Interest	918	11	2
Service of Government Stallions	30	17	0
Horses shod in the Lumber Yard	14	4	0
Obligations to return for Cattle issued from Government Herds in Cash or Grain	2,495	10	7
Obligations to return in Kind 1,301 Cows issued for Maintenance of Convicts	—	—	—
	£69,189	13	6

GOVERNOR DARLING TO UNDER SECRETARY STANLEY.
(Despatch per ship Eliza.)

Sir, Government House, 15th March, 1828.

I have the honor to acknowledge the receipt of the Several Dispatches, as dated in the Margin,* which arrived by the Ship Asia on the 13th inst., and I shall do my self the honor to reply thereto as soon as circumstances permit. I have, &c.,

RA. DARLING.

Despatches acknowledged.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 38. per ship Eliza; acknowledged by Sir George Murray, 27th November, 1828.)

Sir, Government House, 17th March, 1828. 17 March.

Conceiving it would be satisfactory to you to be enabled to form a judgment of the State of the Colony with respect to the Commission of Crimes of serious character, I do myself the honor Sir to transmit, for your information, the accompanying Comparative Statement of the Convictions before the Supreme Court for the last three Years. However large the amount, I am glad to have reason to think that the result will prove not altogether Unsatisfactory, as, notwithstanding the great encrease

Comparative statement of convictions before supreme court.

* *Marginal note.*—From the Right Honble. The Secretary of State.—No. 6, 4th November, 1827; 7, 6th do, 1827; 8, 7th do, 1827; 9, 7th do, 1827; 10, 8th do, 1827; 11, 8th do, 1827; 12, 9th do, 1827; 13, 9th do, 1827; 14, 10th do, 1827; 15, 10th do, 1827; 16, 11th do, 1827; 17, 12th do, 1827; 18, 15th do, 1827.
From the Under Secretary of State.—14th September, 1827; 20th October, 1827; 2d November, 1827; 3rd do. 1827; 6th do, 1827; 13th do, 1827; 13th do, 1827; 14th do, 1827; 20th do, 1827.

1828.
17 March.

Decrease in number of convictions.

of the Population, nearly 5,000 Convicts alone having been received within the last two Years, independent of the Individuals who have come out as Settlers, it will be seen that the Convictions have been generally less Numerous than in the Year 1825; and I am happy to add that the Colony is in a state of perfect tranquillity, Bushranging, from the operation of the "Ticket of Leave" regulations, and the other Measures which have been adopted, appearing to have been completely put down.

It will be observed that, under the head of "Offences against the person," including Murder, Manslaughter, etc., there were 28 Convictions in the Year 1825, while, in the Year 1827, the Number was 18 for similar Offences.

Under the head of "Offences against Property," there appears to have been *142* Convictions in 1825, while, in the Year 1827, the Number did not exceed *89*, exclusive of the Prisoners who seized the Brig Wellington, which in fact forms a distinct Case, the Men being at the time under Transportation to Norfolk Island, a Penal Settlement, which is held in the greatest abhorrence.

The total Number of Convictions for Felony in 1825 amounted to *175* and, in 1827, to *116*, excluding the Pirates above alluded to.

Increase in capital convictions and executions.

The Number of Persons Capitally convicted in the former year was 54, of whom only 9 were Executed. In the Year 1827, Ninety three were Capitally Convicted, 29 of whom Suffered Death. It is satisfactory to perceive that, Notwithstanding the encreased Number of Capital Convictions in the last Year, they were not the result of Crimes of the gravest Character, as the Number of Men found Guilty of Murder for example was the same in both Years, *ten*. It is therefore fair to presume, as the infliction of the utmost sentence of the law, which took place in the Years 1826 and 1827 to a greater extent than had heretofore been usual, has not urged Offenders to a more indiscriminate destruction of Human Life than formerly, that it may have had the effect of checking crime generally, which appears indeed to be borne out by the Statement, 175 Convictions for Felony having taken place in 1825, while, in 1827, the Number did not exceed 116, although the Population had in the mean time received an increase of several thousand Individuals, nearly 5,000 of whom were Convicted Felons.

The accompanying Statement will be found in the "Blue Book" of the last Year, which was forwarded with my former Despatches, but, as the Matter it contains is interesting and important, I have been induced, Sir, to bring it specially under Your Notice.

I have, &c.,

Ra. Darling.

1828.
17 March.

Comparative return of convictions before supreme court.

[Enclosure.]

RETURN of the number of Offenders convicted by the Supreme Court of Criminal Jurisdiction at Sydney, N.S. Wales, in 1825, 1826 and 1827, distinguishing each Year, the Offences of which Convicted, and the Number of Capital Convictions and Executions.

Year.	Felonies. I. Offences against the Person. Murder.	Accessary after the fact to Murder.	Stabbing or Cutting with Intent to Kill.	Shooting with Intent to Kill.	Rape.	Assault with intent to commit Rape.	Manslaughter.	II. Offences against Property. Piracy.	Arson.	Burglary.	Stealing in a Dwelling House above the Value of Forty Shillings.	Stealing in a Dwelling House no one being therein.	Stealing in a Dwelling House and putting the Persons therein to bodily fear.	Highway Robbery.	Street Robbery.	Stealing from the Person.	Sheep Stealing.	Horse Stealing.	Cattle Stealing.	Receiving Stolen Goods.	Grand Larceny.	Accessary after the fact to Grand Larceny.	Accessary after the fact to Burglary.	Accessary after the fact to Highway Robbery.	Accessary after the fact to Stealing from the Person.	Accessary after the fact to Sheep Stealing.	Accessary after the fact to Cattle Stealing.	Petit Larceny.	III. Miscellaneous. Forgery.	Uttering a false Token with Intent to Defraud.	Perjury.	Total Number of Felonies.	Misdemeanors. Assault.	Conspiracy.	Keeping a Disorderly House.	Total Number of Misdemeanors.	Total Number of Persons Capitally Convicted.	Total Number of Persons Executed.
1825	10	...	1	11	1	3	2	...	2	17	...	...	19	30	...	...	5	2	8	9	49	...	...	1	...	...	...	...	1	2	1	175	9	9	...	18	54	9
1826	8	1	1	...	...	...	3	...	...	25	1	1	13	12	2	...	4	13	8	1	48	...	2	3	...	...	...	1	3	...	...	153	6	2	1	9	72	
1827	10	...	3	...	1	...	4	23	...	15	4	1	13	8	...	4	5	3	9	...	16	1	3	...	1	2	4	...	8	...	1	139	1	...	...	1	93	29

1828.
18 March.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.

Sir, Downing Street, 18th March, 1828.

Recommendation of G. Mackenzie as settler.

This letter will be presented to you by Mr. George Mackenzie, who has determined to establish himself as a settler at New South Wales, and whom I am anxious to recommend to your favorable notice and protection, in consequence of the enclosed communication from Mr. Gladstone, which will more fully explain to you the object with which Mr. Mackenzie is proceeding to the Colony. And I beg to add that I shall feel myself obliged by any attention and assistance which you may be able to render this gentleman. I have, &c.,

W. HUSKISSON.

[Enclosure.]

MR. J. GLADSTONE TO RIGHT HON. W. HUSKISSON.

My dear Sir, Edinburgh, 11th March, 1828.

We got here yesterday, when I found a letter from my friend Sir George Mackenzie informing me his son George, tired of being without employment, had determined to seek his fortune as a free settler in New South Wales. You will recollect that, in consequence of a former Letter of mine, you were good enough to place his name on your list as a Candidate for a Junior Clerk's situation in the Colonial Office, whilst you explained to me that the period must necessarily be remote and uncertain, when you might have the power to appoint him; this he therefore gives up, and intends to embark by a Vessel, intended to sail from Dublin about the 25th Inst. His Father is to supply him with the required Capital of Five hundred pounds, which I understand, under the regulations of the Office, entitles him to a grant of Land on his arrival. He has two friends already there, who are thriving Men, and he is desirous to establish himself in their neighbourhood, if he should find it practicable to do so. Will you therefore be good enough to send me the necessary documents, of which he will have to avail himself on his arrival; and, if you will kindly add to them such introductions as you can favor him with and that it will be important for him to possess, I shall feel much obliged by your doing so, when I will transmit the whole to him. Believe me, &c.,

JOHN GLADSTONE.

Mackenzie is not aware where his Friends are settled in New South Wales; it is therefore desirable that this circumstance should be mentioned in the documents, so as to have the selection of situation open.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828. 18 March.

(Despatch No. 39, per ship Eliza; acknowledged by Sir George Murray, 31st October, 1829.)

Sir, Government House, 18th March, 1828.

I am induced, in Consequence of the Orders conveyed to me in Your Despatch No. 10 of the 8th November last, that the public was not to be subjected to any additional Expense for the performance of Captain Rossi's duties as Superintendent of Police while absent in consequence of ill Health, to bring under Your Notice the Despatch which I had the honor of addressing to Earl Bathurst on the 2d of March, 1826, No. 6, respecting the remuneration to be granted to Mr. Justice Stephen for the period he acted as Chief Justice during Mr. Forbes's illness and absence from his duty. Despatch acknowledged.

According to the principle now laid down, the Persons included in that arrangement would be entitled to only half the Salary of the Situations they acted in; But, as no regulation to this effect appears to have existed here at the time, they were allowed respectively to draw the full Salaries of the situations they temporarily filled. It would in fact have been impossible to have expected Mr. Justice Stephen to perform the Duties of Chief Justice at a lower Salary than £2,000 a year, the whole weight of the Judicial Department being thrown upon him instead of being divided as heretofore between Mr. Forbes and himself; and, as Mr. Forbes's temporary retirement had been rendered necessary in consequence of his Health, it would not, as I conceive, have been advisable, in the absence of a regulation to that effect, to have subjected him, who considered he was already very inadequately paid, to any reduction of Income in consequence of Absence from his Office occasioned by the laborious duties he had then to perform. I expressed my opinion accordingly to Earl Bathurst, as will be seen by the Annexed Extract from my Despatch above referred to, Paragraph No. 4; but, not having received any reply, the Salaries, as then proposed, were paid to the Individuals included in the arrangement, and I have to request the necessary authority for the Amount being admitted in the public Accounts. Salary of J. Stephen as acting chief justice.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was the fourth paragraph of Governor Darling's despatch, dated 2nd March, 1826, and numbered 6; see page 197, volume XII.*]

1828.
19 March.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 40, per ship Eliza.)

Sir, Government House, 19th March, 1828.

Despatches *re* coal mines for A.A. company.

I have delayed acknowledging Earl Bathurst's Despatches of the 26th of July, 1826, one Numbered "51" and the other Marked "Separate" respecting the Coal Mines at New Castle in the expectation that it might have been in my power before this, to have conveyed some information as to the proceedings of the Australian Agricultural Company in this respect.

I had the honor to receive the Despatches above referred to on the 7th of January, 1827, since which time a person on the part of the Company has, I understand, been constantly employed boring in different parts of the Country, but hitherto without Success. It therefore appears doubtful, so much time having been employed without effect, whether they will ultimately succeed.

I have been induced, Sir, to trouble you with this explanation, in order that you might be aware of the Actual State of this Matter.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 41, per ship Eliza.)

20 March.

Sir, Government House, 20th March, 1828.

Despatch acknowledged.

In acknowledging the Receipt of Earl Bathurst's Despatch No. 92, dated the 12th of November, 1826, relating to the case of the Ship "Almorah," I do myself the honor to acquaint you that the Report of the King's Proctor, which accompanied his Lordship's Despatch, was communicated in the Month of August last to Deputy Commissary General Wemyss, and, after a protracted correspondence with that Gentleman and the Attorney General as to the steps necessary to be taken, I appointed the Colonial Secretary, Mr. Wemyss, and Deputy Commissary General Laidley, to form a Board to consider the best course of proceeding, and the Board recommended that a Commission, which had been previously received from the Supreme Court at Calcutta for the purpose of procuring Evidence here, should be immediately acted on.

Procedure adopted in case of ship *Almorah*.

This course was accordingly adopted, and a Communication was made to the Chief Secretary of the Government of Bengal on the 20th of October, informing him that the Commission would be proceeded on without loss of time. On which occasion, a Copy of the Report of the King's Proctor was forwarded with a request that the same might be communicated to the Supreme Court at Bengal.

On the 3d of December last, the Proceedings under the Commission, above referred to, were forwarded to the Chief Secretary at Calcutta, who was requested to move the Governor General to cause them to be submitted to the Supreme Court and to authorise all necessary Expences to be defrayed, which might be incurred in this matter on account of His Majesty's Government.

1828. 20 March. Transmission of papers to Calcutta.

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 42, per ship Eliza; acknowledged by Sir George Murray, 4th February, 1829.)

Sir, Government House, 21st March, 1828. 21 March.

I have been solicited by the Regiments stationed in this Command to permit the Wine imported for the use of the respective Messes to be landed duty free. It is subjected at present to an Ad Valorem Duty of 5 per Cent. The Amount of the indulgence is inconsiderable, and I trust, when it is known that the Officers derive no one advantage here in the Shape of Colonial Allowance or otherwise beyond their Pay, that it will not be refused. Proposed remission of duty on wine for military mess.

At Home, the Regimental Messes receive an Allowance from Government of £250 a year, which ceases on the embarkation of Regiments for the Commands Abroad. The Corps here may therefore be said to have some claim to receive their Wine Duty free, the Expences to which Individuals are subjected in this Country being Comparatively much greater than in England.

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 43, per ship Eliza; acknowledged by Sir George Murray, 11th November, 1828.)

Sir, Government House, 22d March, 1828. 22 March.

I do myself the honor to transmit the Petition of Mr. Howe, the Editor of the Sydney Gazette, to be permitted to assume the Title* of "King's Printer." Transmission of petition from R. Howe.

It would be unjust in me towards that Individual not to bear testimony to his Zeal in the Cause of Government, though I do not presume to judge whether a Compliance with the prayer of his Petition would be consistent or convenient.

I have, &c.,
Ra. Darling.

 * Note 16.

1828.
22 March.

Petition from R. Howe for title of "King's Printer."

[Enclosure.]

THE humble petition of Robert Howe, Government Printer of His Majesty's Colony of New South Wales,

To the Right Honorable Viscount Goderich, His Majesty's Principal Secretary of State For the Colonial Department,

Humbly sheweth,

That your Petitioner has resided in this Colony upwards of twenty six years, and that, in the Year 1803, his Father, under the Sanction of the late Governor King, founded a Newspaper, intitled "The Sydney Gazette and New South Wales Advertiser," which, from that period to the present, has been the official organ of the local Government.

That your Petitioner, at that time, though only eight years of age, entered into the service of His Majesty's Government in the department of the said official Gazette, and has faithfully continued therein to the present hour.

That, in the Year 1821, your Petitioner, on the death of his Father, was appointed by the late Governor Macquarie to the situation of Government Printer, subject to His Majesty's approval, which situation he has ever since had the honor to fill.

That your Petitioner has all along been the sole Editor as well as Printer of the said Gazette, in which capacity he has faithfully and zealously exerted his humble talents in supporting the administration of the successive Governors, in promoting the peace and welfare of the Territory, and in resisting those audacious attacks on the constituted Authorities, which have of late so copiously issued from the opposition journals of Sydney.

That your Petitioner's Services, which have extended through seven complete Administrations, and have now entered the eighth, have been acknowledged by various public functionaries, in testimony whereof he begs to refer Your Lordship to the Documents hereunto appended.

That, for proof of your Petitioner's present Loyalty and Zeal in His Majesty's Service, he begs leave most respectfully to appeal to His Excellency Lieutenant General Darling, the present enlightened and assidnous Governor.

Wherefore your Petitioner humbly prays that your Lordship will be pleased to take the Premises into your most favorable consideration, and that, as a reward for his long and faithful services, your Lordship will be pleased to recommend His Majesty to confer upon his loyal and devoted subject, your Petitioner, the title of "King's Printer for His Majesty's Colony of New South Wales."

And your Petitioner, as in duty bound, will ever pray.

ROBERT HOWE.

Sydney, New South Wales, 2nd November, 1827.

Testimony to services of R. Howe.

THE following are the Documents respectfully referred to, in the foregoing Petition for the consideration of the Noble Secretary of State for the Colonies.

No. 1. A Certificate from Governor Macquarie.

Government House, Sydney, 6th February, 1822.

I DO hereby certify that the bearer hereof Mr. Robt. Howe (Son of the late Mr. George Howe, Government Printer) was appointed by me to be Government Printer, in succession to his father, in consideration of his fitness and competency for that important

office, and for which I have recommended him to His Majesty's Ministers for confirmation.

1828. 22 March.

Testimony to services of R. Howe.

I do further certify that Mr. Robert Howe has conducted himself with the utmost propriety and correctness, since my appointment of him to succeed his Father as Government Printer, to the duties of which he pays the most diligent and assiduous attention. I therefore strongly recommend him to the favor and Protection of my Successor in the Government, as deserving of his Patronage and Support.

L. Macquarie,
late Govr. in Chief of N. S. Wales.

To all whom it may concern.

No. 2. A Letter from Lieut. Governor Arthur, V. D. Land.

Sir, Government House, Hobart Town, 14th April, 1825.

I received, by the hands of the Revd. Mr. Hutchinson yesterday, your Memorial upon the subject of the Establishment of your Brother* in this Island, to which, in transmitting this Document to me, His Excellency has added his favorable testimony and recommendation.

Your Sentiments towards the Governments of these Colonies, as pourtrayed in the Sydney Gazette, are such as I feel give your family a just claim to any support which it can bestow, and I shall be happy therefore to render your Brother any service in my power.

Many months since, long before there was a rumour of your forming an Establishment here, I felt it necessary to withdraw as soon as possible from giving to Mr. Bent any further support, and promised to countenance a Gazette* to be conducted by Dr. Ross. Having given my word, I am of course bound to support that Gentleman; but, after consulting with your friend Mr. Mansfield, I have suggested an arrangement which I think may be mutually beneficial to Doctor Ross, and your Brother, who is rather young to stand alone in the Field of controversy in times like the present, which require experience as well as talents in conducting a Gazette. A Union of interests I hope may be formed in a fair and liberal understanding on both sides, and, having suggested this measure, I must now of course leave it in the Hands of the Parties themselves.

I am, Sir, &c.,
Geo. Arthur.

No. 3. Extract of a Letter from Lieut. Govr. Arthur, V.D.L.

Sir, Government House, Hobart Town, 23d June, 1825.

I have the pleasure to acknowledge the Receipt of your letter of the 29th April and 3rd Ultimo, and desire to assure you that I am much obliged by the assistance you have rendered the local Government of Van Diemen's Land, as well as by the prompt and very handsome manner in which it has been afforded.

When the last Vessel sailed for Sydney, the arrangements between Doctor Ross and your Brother were not perfected, and I was reluctant to address you until it was in my power to say that your Endeavours to relieve the Government had proved effectual.

The first number, edited by the new printers, will appear on Friday next. Their Hands will I am sure be strengthened by every further aid you can afford them, until they are as independent in the way of all Supplies, as they are unshackled by the Government in every other respect.

I am, &c.,
Geo. Arthur.

* Note 17.

1828. 22 March.

No. 4. A Letter from Sir Thomas Brisbane, K.C.B.

[A copy of this letter, dated 24th October, 1825, will be found on page 465, volume XII.]

Testimony to services of R. Howe.

No. 5. Extract of a Letter from Lieut. Governor Stewart.

The Lieut. Governor feels much pleasure in acknowledging the receipt of Mr. Howe's polite communication of yesterday's date.

The Lieut. Governor cannot omit this opportunity of candidly avowing that he is friendly to the Politics, which Mr. Howe has of late so ably advocated, and he has not failed also to observe the distinguished talent, which he has displayed in so firmly supporting the Administration of His Excellency Sir Thomas Brisbane, which has not only procured him many friends in this Country, but which he is satisfied will raise the reputation of his highly respectable Journal in England.

Impressed therefore as he is with Sentiments of Esteem for Mr. Howe, his Politics, and Editorial abilities, he with much pleasure accepts of his obliging offer, etc., etc., etc.

Pitt Street, Sydney, Friday, 18th November, 1825.

No. 6. A Note from Major Goulburn, Colonial Secretary.

The accompanying Works of Mrs. Carter, Major Goulburn presents to Mr. Howe in Testimony that the Editor of the Sydney Gazette, by his advocacy of the true interests of New South Wales, identified himself with the Administration of His Excellency Sir Thomas Brisbane, and with the public measures of every civil officer, who acted conscientiously as a public Servant.

Sydney, 26th January, 1826.

GOVERNOR DARLING TO UNDER SECRETARY STANLEY.

(Despatch per ship Eliza.)

Sir, New South Wales, 22d March, 1828.

Disapproval of petition of R. Howe.

In transmitting the Petition of Mr. Howe, the Editor of the Sydney Gazette, to be permitted to assume the Title of King's Printer, which I have done officially by the present opportunity, I must observe that I cannot recommend the Prayer of his Petition; but, on the contrary, consider it very desirable that

Proposed foundation of a government gazette.

a separate Gazette should be established for the use of the local Government. It was my intention some time since to have adopted this measure; but the state of matters has prevented it. I have in fact been unwilling to furnish Mr. Howe's immediate opponents with the cause of Triumph, which the establishment of a Government Gazette would have afforded them.

I cannot, however, suppress my opinion that it is extremely desirable, and I shall be very glad to receive the Secretary of State's Commands to that effect.

The Expence, I apprehend, would be inconsiderable. When the Question was agitated some time since, Mr. Howe mentioned that he did not suppose it would exceed £200 a Year.

I have, &c.,

RA. DARLING.

Governor Darling to Right Hon. W. Huskisson.

1828. 24 March.

(Despatch marked "Separate," per ship Eliza; acknowledged by Sir George Murray, 3rd November, 1828.)

Sir, Sydney, 24th March, 1828.

1st. It has occurred to me, although I have incidentally adverted to the circumstance of the Salaries, which I have suggested for the Civil Officers, appearing higher than those they have hitherto received, that I may not have drawn your attention to the fact of the encrease being in many cases more in appearance than in reality, so particularly as I ought to have done. Cause of increase in salaries of civil officers.

2nd. The Officers of the Civil Government had, in many cases, been in the receipt of Fees in addition to their former Salaries, of Rations for themselves and Families, Servants on the Stores, that is, Convicts clothed and fed at the expence of Government, Lodging money and Forage for Horses, whereas, according to the present Arrangement, every thing, they are intended to receive, is stated under the Head of Salary with the exception of the two latter Items in a few particular cases. Thus the former Salaries appear comparatively inconsiderable to those now proposed.

3rd. In some of the communications which have been addressed to me respecting the Surveyor General, it would appear that his Fees had not been taken into account, his Income being stated at four or five hundred a Year (whereas it has been from twelve to fourteen hundred, and, according to the Scale on which Lands are now disposed of, would encrease considerably every Year), and more particularly, when mentioned with reference to the Salary of the Commissioners for apportioning the Territory. That their Salary was out of proportion to the Service, they rendered for a considerable period after their Appointment, cannot be denied, and I did not fail, Sir, to state my opinion to this effect, when I had the honor of addressing Earl Bathurst on the subject. I can now with equal confidence assert that, the duties of the Office being properly and efficiently performed, any thing short of £500 a Year would be inconsistent with, and inadequate to an Office of that Character. Salary of surveyor-general; and of commissioners for survey.

4th. I have forborne Sir, when writing on the subject of the Situation of the public Officers, to mention the comparatively great Expence to which Persons living in this Country are subjected, knowing it is a common topic on such occasions. It is not enough that the Officers here (I allude to the subordinate of course) should be placed above want. It is important that they should not be exposed by indigence to temptation. House Rent and Lodgings are very high. Horses even of the commonest Cost of living.

1828. 24 March.

description are dear. The Expence, to which Individuals are subjected on these Accounts alone, makes a serious impression on their Income, exclusive of the various other Items, which are indispensible to the respectability of their appearance and public Character.

Necessity for adequate salaries.

5th. I can have no desire, Sir, to obtain high or disproportionate Salaries for the Officers of this Government, not one of whom has been appointed at my recommendation; and I am not personally interested in their success. But it is a duty incumbent upon me, as it is important to the Service of His Majesty's Government, to point out how desirable it is that the public Officers be rendered something more than comfortable in point of Income, otherwise it would be in vain to expect that qualified Men of respectable Character should abandon their Friends and pursuits at Home, and come out to this country.

Impracticability of adopting fixed scale.

6th. As connected in some degree with this subject, I venture, Sir, to request your attention for a moment to the impracticability in the incipient State of this Colony of keeping some of the Establishments to any fixed Scale.

Administration of convict department.

7th. In the case of the Convict Establishments for example, men are thrown in upon them daily after having been assigned repeatedly, the Settlers, however much in need of Servants, finding it impossible from the badness of their Character to retain them. You are aware, Sir, that the number of this class must encrease in proportion to the influx of Convicts, as, in every Lot which arrives, there is a number of incorrigible Characters. In order to turn these Individuals to some useful Account, they have been employed on the roads as I have before had the honor of stating to you.

These Men are therefore not voluntarily maintained at the expence of Government, but from necessity, and the Expence of their Superintendance, which is regulated on the most œconomical Scale, is unavoidable.

Necessity for new benches of magistrates.

8th. It is further my duty to point out that the rapid Advancement of the Colony renders it in fact impossible, with even common attention to its wants, to delay adding new Establishments or extending the old. I am importuned incessantly to form Benches of Magistrates in the remote and newly settled parts of the Country, the Settlers and Magistrates declaring the measure indispensible to the preservation of their property. I have been under the necessity of yielding in some cases. If I had not, Stipendiary Magistrates must have been appointed. In others, where it appeared less necessary, I declined it on the ground of the tranquillity of the Country and the Expence attendant on such Establishments; For example, erecting Court

Houses, or Places for the Magistrates to assemble, Jails or Lock up Houses for the security of Prisoners, and the necessary Establishment of Clerks, Constables, etc. I have, &c., 1828. 24 March.

RA. DARLING.

P.S.—On the receipt of the Instructions* from the Lords Commissioners of the Treasury, I felt myself called on to point out to Earl Bathurst the injury which would result to the Service from making general Instructions applicable to this remote Colony. My Despatch, above alluded to, is dated the 18th Feby., 1827, No. 26. R.D. Objections to instructions from treasury.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 44, per ship Eliza; acknowledged by Sir George Murray, 2nd November, 1828.)

Sir, Government House, 24th March, 1828.

I have been induced to delay replying to Earl Bathurst's Despatch No. 57, dated the 8th of August, 1826, respecting the "Benevolent Asylum," until I could have an opportunity of satisfying myself whether the proposed measure of supporting that Establishment by an Annual Grant of Money to be paid from the Colonial Revenue would be likely to prove advantageous. I have frequently had the subject under Consideration, but, doubting the policy of the Measure, I have lately consulted the Gentlemen of the Committee as to the expediency of such an Arrangement without informing them of its being in Contemplation. These Gentlemen, whose exertions do them much Credit, are fully of opinion, should the Government interfere further than it does at present, that the Inhabitants would no longer take any interest in the Institution, the effect of which would be doubly felt, inasmuch as they not only would not subscribe at all, but, what is perhaps of more consequence, would induce a greater Number of the Poor to Seek for Support from the Asylum, instead of restraining them as they now find it their interest to do. Proposed annual grant to benevolent asylum. Objections to proposal.

Besides the Committee of Management Act gratuitously at present. But the Moment the Institution should be put on the footing of a Government Establishment, the Surgeon, Secretary, and other Individuals, who constantly Superintend, would no doubt expect to be paid for their trouble.

I have much pleasure in stating, Sir, that no Establishment can be Managed with more economy. The Average Expense of each Patient does not exceed five Shillings a Week, that is *£13* a year, for which they are comfortably fed and Clothed.

I do myself the honor, Sir, to enclose for your information a Statement, shewing the average Number of persons relieved

* Note 9.

1828. 24 March.

during the three last Years, with an Abstract of the Receipts and Expenditure for the same period.

Commendation of officers.

I cannot close this communication without mentioning to you, in terms of merited approbation, the Names of the Revd. Mr. Hill, the Secretary, and of Dr. Bland,* the Medical Attendant, whose exertions are unceasing, and on whom in fact the labour of conducting the Establishment rests.

Proposed additions to building.

I beg to submit to you the necessity which exists of adding to the House, which is crowded to a degree, not only inconvenient but injurious to the Individuals residing in it. There are several Persons, who from want of accommodation, it has been impossible to admit, and the labour of attendance is encreased by the necessity of visiting them at several places in the Town. The Civil Engineer being absent at this Moment on a Tour of Inspection, it is not possible for me to forward by this opportunity the Plan and Estimate required by my Instructions; but I shall not fail to do so by the next opportunity, and I request, as the proposed addition is indispensable, that the Authority for the Undertaking may be expedited. I have, &c.,

RA. DARLING.

P.S.—It has occurred to me that the published report† of the Benevolent Society for the Year 1826, would furnish every information respecting the Manner in which the Institution is at present Conducted and I do myself the honor to transmit it.

[Enclosure No. 1.]

Return of persons relieved by benevolent asylum.

RETURN of the Average Number of Persons relieved by the Benevolent Asylum during the Years 1825, 1826, and 1827.

		Number of Persons.		Number of Persons.	Total.
1825	In the Asylum	87	Out of the Asylum	13	100
1826	do	97	do	17	114
1827	do	97	do	19	116
	Total.....	281	Total.....	49	330

[Enclosure No. 2.]

Abstract of accounts.

ABSTRACT of the Receipts and Disbursements of the Benevolent Asylum of New South Wales during the Years 1825, 1826, and 1827.

		£	s.	d.			£	s.	d.
1825	Cash from Colonial Revenue	1,050	0	0	1825	By Cash paid for Expenses	1,438	10	3
	Subscriptions received	481	0	0					
1826	Cash from Colonial Revenue	1,050	0	0	1826	By Cash paid for Expenses	1,709	13	10
	Subscriptions received	541	0	0					
1827	Cash from Colonial Revenue	997	0	0	1827	By Cash paid for Expenses	1,405	17	5
	Subscriptions received	373	0	0					
	Balance in Hand	42	1	6					
	Total Amount.....£	4,554	1	6		Total Amount...£	4,554	1	6

* Note 18. † Note 19.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828.
(Despatch No. 45, per ship Eliza; acknowledged by Sir George Murray, 30th September, 1828.) 25 March.

Sir, Government House, 25th March, 1828.

I do myself the honor to acquaint you that, having brought under the consideration of the Executive Council the Case of James Kelly, recently convicted of Murder before the Supreme Court, the Sentence passed on that Individual has been Commuted to Transportation to Moreton Bay for Seven Years and Hard Labour in Chains, and I humbly beg leave to recommend the same to His Majesty's Merciful consideration. Commutation of sentence on J. Kelly.

I have, &c.,

[Enclosure.] RA. DARLING.

EXTRACT of the Minutes of the Proceedings of the Executive Council at a Meeting held on the 8th March, 1828. Minutes of executive council.

HIS EXCELLENCY the Governor submitted to the consideration of the Council the Report of His Honor Chief Justice Forbes on the case of James Kelly, who had been convicted before the Supreme Court of the wilful Murder of John Fuller, and sentenced to suffer death, but, in consideration of the strong recommendation of the Jury and the circumstances which appeared on the trial, the Chief Justice had respited the execution of the Sentence until the pleasure of the Governor should be known.

The Chief Justice read the Notes of Evidence, which he had taken during the Trial, and it appeared that the Individual killed was a notorious Robber, whom the Prisoner, James Kelly, had pursued into the Woods, and further that, immediately after perpetrating the act, he, that is Kelly, informed the Police and delivered himself up.

The Council, taking all the circumstances of the case into their mature consideration, advised that the Sentence of Death passed upon the Prisoner James Kelly should be commuted to Transportation to Moreton Bay for Seven Years.

A true Copy:—T. DE LA CONDAMINE, Actg. Clerk of Council.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 46, per ship Eliza.)

Sir, Government House, 26th March, 1828. 26 March.

I do myself the honor to transmit for Your information two Sketches,* pointing out the Situations of Certain Allotments of Ground which I granted some time since to the Persons named in the Margin.†

The Land granted‡ to the Chief Justice is Situated on the River Nepean, in the Neighbourhood of Emu Plains, and was Land granted to F. Forbes.

* Note 20.

† *Marginal note.*—Chief Justice Forbes, Acres 130; Mr. McLeay, Colonial Secy., 50; Dr. Douglass, Clerk of Council, Mr. Busby, Mineral Surveyor, Mr. Spark, J.P., Judge Stephen; Mr. Baxter, Atty. General; Mr. Balcombe, Treasurer; From 8 to 10 Acres each.

‡ Note 21.

1828. 26 March.

given with a view of his erecting a Convenient Country residence, the 10,000 acres, which he received from Sir Thomas Brisbane, being at a considerable distance from Sydney on the upper Branch of Hunter's River.

Land granted to A. Macleay;

The *50* Acres granted* to Mr. McLeay at Elizabeth Bay, a Mile and a half from Sydney, was for the purpose of Erecting a Family House and Cultivating a Garden. Mr. McLeay's knowledge as a Horticulturist is likely to prove beneficial to the Colony. He has already expended a considerable Sum in the improvement and Cultivation of his Grounds and in erecting Stabling and Offices preparatory to building a House, which it is his intention shortly to commence. From the manner in which he has entered into this Undertaking and the Scale on which he has commenced to settle and Stock the Land he has received for Agricultural purposes (the usual Grant of 2,560 Acres), he will no doubt prove an important acquisition to the Colony in this respect alone, the Capital, he has already vested in Stock and is still continuing to expend, being considerable.

and to J. Wylde.

The Allotment* bearing Judge Wylde's Name on the Sketch No. 2 was granted to that Gentleman by Governor Macquarie, Several Years Since, and still remains unimproved. I propose writing to inform the Judge it will be resumed by the Government, unless the Conditions of the Grant are speedily fulfilled.

Town allotments.

The Six other Allotments on the Same Sketch, consisting of from 8 to 10 Acres each, were granted by me principally to Gentlemen in the Service of Government, for the purpose of enabling them to provide themselves with a residence and have the benefit of a Garden.

Proposed deed of grant.

I do myself the honor to submit, Sir, for Your Consideration a Draft of the proposed Deed of Grant of the Allotments in question (with the exception of Mr. Forbes's, which is situated in a distant part of the Country, and will be the same as other Grants of Land in that Neighbourhood) by which you will perceive, Sir, that the Parties are required to build on a particular Plan.

Proposed improvement of Hyde park.

I have been anxious for some time past to Submit a Plan for the improvement of that part of Sydney called Hyde Park,† which forms the Southern Boundary of the Town. But the Severe Illness of the Surveyor General and other circumstances have prevented me from carrying my wishes into effect. I shall, however, take the first opportunity of having the Matter fully considered, so as to be submitted to you in a form which I trust will enable you to decide as to the expediency of the arrangement which I shall have the honor to lay before you.

I have, &c.,

Ra. Darling.

* Note 21. † Note 22.

[Enclosure.]

1828.
26 March.

Proposed deed of grant for allotments for town residences.

FORM OF DEED OF GRANT.

New South Wales.

By His Excellency Lieutenant General Ralph Darling, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

WHEREAS full Power and authority for granting Lands in the Territory of New South Wales is vested in His Majesty's Captain General and Governor in Chief, or in his absence the Lieutenant Governor, for the time being of his said Territory and its Dependencies. Now, in pursuance therefore of the Power and authority as aforesaid in me vested, I do by these presents Give and Grant unto Henry Grattan Douglass, Esquire, All that piece or parcel of Land, lying and situate in the parish of Alexandria, County of Cumberland, containing by Admeasurement Eight Acres and Nine Rods, Bounded on the West by Woolloomoolloo Bay, On the South by a line East of Twelve Chains fifty links, On the East by a line North of Nine Chains, fifty links, and on the North by a line West Twenty three Degrees South, Twelve Chains, fifty links to Woolloomoolloo Bay, To have and to hold the said piece or parcel of Land unto the said Henry Grattan Douglass, His Heirs and Assigns, for ever, Yielding and Paying therefore yearly and every Year unto His Majesty, His heirs and Successors, the Annual Quit Rent of Eight Shillings of lawful Sterling Money of Great Britain on the thirtieth day of June in each and every Year. Provided always and It is hereby also expressly to be understood, and these presents are on the following Conditions:—That, if the said Annual Quit Rent be in arrear for the Space of Twenty days after the time appointed for payment thereof, the same may be recovered by Distress or otherwise as His said Majesty, His Heirs and Successors, may deem proper or be advised; And, in case no sufficient distress be found, and the said Quit Rent be in arrear after that time, the whole of the said Land to revert to the Crown, and these presents to be and become from thenceforth absolutely null, void, and of no effect, any thing herein contained to the contrary notwithstanding: Provided and it is hereby also expressly to be understood that, if at any time hereafter the said Grantee, His heirs or assigns, or other proprietor of the said Land for the time being, shall be minded and desirous of redeeming or purchasing off the annual Quit Rent hereby reserved and made payable, he, she, or they may be at liberty so to do on paying to His Majesty, His Heirs or Successors, the sum of Eight Pounds, being equal to Twenty Years of the said Quit Rent hereby reserved; and in that Case, from and after the payment thereof, the said annual Quit Rent to cease and determine, and the said Land, and the owner or proprietor thereof from thenceforth shall be and become absolutely freed, released and discharged therefrom. Provided always that the said Henry Grattan Douglass shall erect on the said Land within the term of three Years from the date hereof such Buildings as may be approved of by the Governor for the time being, according to a plan and Specification thereof, to be previously submitted to him for his approval, and that such Buildings be not of less value and cost than One Thousand Pounds Sterling; and that no Buildings, excepting such as shall be so approved, shall at any time hereafter

1828. 26 March.

Proposed deed of grant for allotments for town residences.

be erected on the said Land, the same being granted for one Villa or Residence only; and in default of such approved Building of not less value and cost than One Thousand Pounds Sterling being erected within the said term of three Years, or in the event of any other Buildings being erected on the said Land contrary to the true and plain Intent and meaning of these presents, the whole of the said Land to revert to the Crown, and the Grant hereby made shall be deemed null and void; And it is hereby also expressly to be understood that, if at any time hereafter the said Land, or any part thereof, shall be required by His said Majesty, His Heirs or Successors, or His Majesty's Government for the Territory aforesaid for any public purposes, it may be resumed by His said Majesty, His Heirs or Successors, on giving the said Grantee, His Heirs or Assigns, or other legal Proprietor thereof, Twelve Calendar Months' Notice thereof in writing, and paying for such Buildings as may be then standing on the said Land, or such part thereof as may be required as aforesaid, and for the Fee simple of and in the same, according to a Valuation thereof, to be made by two indifferent Persons, one to be chosen on either side in the usual and customary manner; but, in the event of refusal on the part of the Proprietor of the said Land to nominate and appoint a Person on his part for the purpose aforesaid, both the said Persons to be nominated by His said Majesty, His Heirs and Successors, or the Governor of His said Majesty's Territory for the time being.

In Testimony whereof I have hereunto set my Hand and Seal of the Territory, at Sydney, New South Wales, this day of in the Year of our Lord, One Thousand, eight Hundred and Twenty .

Witnesses:—

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 47, per ship Eliza; acknowledged by Sir George Murray, 26th October, 1828.)

27 March.

Sir, Government House, 27th March, 1828.

Reports on repairs, etc., to buildings and erection of bathing-house.

1st. I do myself the honor to transmit herewith Copies of a Letter from the Civil Engineer and of three Reports of Works, which have been carried on, and may be considered as not under the Authority I possess to incur Expences for the repair or erection of Buildings.

1st. A Report of additions and repairs made to the Government House at Sydney—Actual Money Expense, £141 12s. 6d.

2d. Repairs and Additions to the House appropriated to the residence of the Colonial Secretary—Actual Money Expense, £62 0s. 5d.

3d. Erection of a Bathing House, in the Government Domain —Actual Money Expense, £22 0s. 5d.

Necessity for additions and repairs to government house.

2d. Not having been enabled from the want of adequate means arising from other pressing demands on the Government to avail Myself of the Authority, which I received from Earl Bathurst, to build a suitable Government House, I have been at length under the Necessity of adding to the Old House, so as to render

1828. 27 March.

it sufficient for the accommodation of My Family. I should observe from the Nature and Condition of this Building, part of it being the House erected by Governor Philip* on his first Landing, which has been added to and altered by every Successive Governor, that a New House suitable to the purpose is urgently required. But, possessing no adequate means for such an Undertaking, I have been obliged to add to, patch and repair the present House, so as to permit of my residing generally in Sydney. Considering this House uninhabitable, Sir Thomas Brisbane resided constantly at Parramatta, where in fact a Considerable portion of the Establishment is at present necessarily kept.

Necessity for additions and repairs to government house.

3rd. With respect to the House allotted for the residence of the Colonial Secretary, I was induced on the application of Mr. McLeay, with a view to the sufficient accommodation of his Family, which is numerous, consisting of Six Daughters, to add a Couple of Rooms to it. This, together with the necessary Repairs and Washing the Walls, has occasioned an Actual Expenditure of £62 0s. 5d., the Workmen having in fact been engaged on it only when not required for other purposes.

Additions to residence of A. Macleay.

4th. The Bathing House,† in the Government Domain, is built of stone found on the Spot, and was proceeded on from time to time, when the Men could be spared. It is in fact not yet completed, though commenced early in the Year 1826. The Actual Expence is £22 0s. 5d.

Erection of bathing-house.

5th. The Report and Plan of the Factory are not yet completed. I shall do myself the honor to forward them with a separate Letter, in order that I may have an opportunity of entering more minutely into the Conduct and Management of that Establishment.

I have been induced, Sir; to request Your Authority for bringing the Expences to account, which form the subject of this letter, not so much in consequence of the amount, as they are perhaps within the Scale permitted by my Instructions from the Treasury, as from the Nature of the Undertakings, to which the Auditors of Public Accounts might at some future period object, when it would no longer be in my power to obtain the required Authority.

Reason for requesting approval.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Mr. W. Dumaresq to Colonial Secretary Macleay.

Sir, Engineer's Office, 1st February, 1828.

With reference to your Letter of the 17th Ultimo, calling for Special Reports of the Alterations and Repairs made to Government House, Sydney, the Official Residence of the Colonial Secretary, the Bathing House in Government Domain, also

Transmission of reports.

* Note 23. † Note 24.

1828. 27 March. the Female Factory, Parramatta, I have the honor herewith to forward Separate Statements of the Alterations and Repairs, which have been made to each of them accordingly.

As the Preparation of the Plan of the Female Factory, which must accompany the Report of that Building, will occupy some time, I venture to forward the Enclosed without that Report, which shall be transmitted when completed.

I have, &c.,

WM. DUMARESQ, Civil Engineer.

[Enclosure No. 2.]

Report on alterations and repairs to government house;

REPORT on the Alterations and Repairs made to the Government House, Sydney, between the Months of June and November, 1827.

Additions and Alterations.

ON the Ground Floor, a new Servants' Hall. Two door Ways leading from the Private and Military Secretary's Offices into an office prepared for their Clerks.

Up stairs a bed Room, over the Servants' Hall, and two additional Bed Rooms, by raising the Walls and completing the left Wing of the House to correspond generally with the right. A Staircase and Gallery along the front of the Building (by altering the Roof), opening a thorough communication between the Old and New end of the House.

Repairs.

Nothing of particular importance under this Head. In an old Building, there is necessarily constant repairs required.

A New Ceiling has been put to the Dining Room; the Plastering of Passages made good, and the Colouring and Cleaning of the external Walls attended to, out Offices, etc., etc.

The Estimated Expense of which calculating the Labor of the Convicts employed, together with the necessary Materials obtained from the Public Stores is:—

	£	s.	d.	£	s.	d.
Actual Money Expense being for the Purchase of Lime, Hair and Wood used in the burning the Bricks Expended	141	12	6			
Value of Stores Expended, obtained from the Commissariat	406	2	9			
				547	15	3
2,500 Days Convict Labor at 1s. 3d.				156	5	0
Total Expense				£704	0	3

WM. DUMARESQ, Civil Engineer.

[Enclosure No. 3.]

and to residence of colonial secretary.

REPORT on the Additions and Repairs made to the Official Residence of the Colonial Secretary during the Years 1826 and 1827.

Additions and Alterations.

A CHAMBER FLOOR raised over the two Wings of the Original Building affording thereby, when divided, Four additional bed Rooms, two very small and two middling size.

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A small Skilling containing the House Keeper's Store, etc., having been blown down in a Heavy Storm, replaced in a more Substantial manner.

A Verandah Constructed along the Front of the Building and Windows lowered to open upon it.

The whole of the External Walls of the Dwelling House Coloured and Cleaned.

Report on alterations and repairs to residence of colonial secretary;

The Estimated Expense of which, calculating the Labor of the Convicts together with the necessary Materials obtained from the Stores is:—

	£	s.	d.	£	s.	d.
Actual Money Expense being for the Purchase of Lime, Hair and Wood used in the Burning the Bricks Expended	62	0	5			
Value of Stores Expended obtained from the Commissariat	272	3	4½			
				334	3	9½
987 Days Convict Labor at 1s. 3d.				61	13	9
Total Expense				£395	17	6½

Wm. Dumaresq, Civil Engineer.

[Enclosure No. 4.]

Report on the Erection of a Bathing House* in the Government Domain.

and on erection of bathing-house.

The Building is constructed entirely of Stone found on the Spot, having a Castellated Appearance to the Water to Correspond in some degree with Fort Macquarie on Benelong's Point, which is in view, and at a short distance.

It consists of three very Small Dressing Rooms, also a Room for a Watchman, and a Corresponding space, which is a Privy.

The accompanying Plan will shew the Dimensions.

This Building was undertaken very early in the Year 1826, at a time when the Stone Masons had not any Press of Work on Hand, and it has been carried on from time to time, as the Convenience of the Service and the Employment of the Mechanics permitted.

	£	s.	d.	£	s.	d.
Actual Money Expense being for the Purchase of Lime, Hair and Wood used in the Burning the Bricks expended	22	0	5			
Value of Stores Expended obtained from the Commissariat	17	19	7			
				40	0	0
2,000 Days Convict Labor at 1s. 3d.				125	0	0
Total Expense				£165	0	0

Wm. Dumaresq, Civil Engineer.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 48, per ship Eliza.)

Sir, Government House, 27th March, 1828.

I have been prevented by a variety of circumstances from paying the necessary attention, which I was most anxious to

* Note 24.

1828. 27 March.

render to the Subject of Earl Bathurst's Despatch of the 11th December, 1826, No. 102, respecting the Church and School Establishments of this Colony. I had the honor to receive that Despatch on the 25th of July last, and lost no time in communicating its contents to the Archdeacon, to whom I made the necessary reference on the 7th of August.

Despatch acknowledged.

Delay in transmission of archdeacon's report.

The Archdeacon's reply, a copy of which is herewith enclosed, is dated the 25th of September. But it appeared to me the less necessary to forward it at the Moment, being of opinion, from the view taken of the question generally by His Majesty's Government, that the measures and Arrangements contemplated could not consistently or conveniently be carried into effect until the Corporation should be put in possession of some considerable portion of the lands to be assigned to the Church. Until this has been done, the Expences should be limited as much as possible to the Stipends of the Clergy and the Salaries of the School Masters. The Archdeacon very justly thinks it would be more economical to building School Houses than Continue to pay Rent as at present. There could be no question on this, if the Corporation possessed the necessary Funds; but, in the absence of those Funds, I must think it advisable to delay the erection of Buildings and confine this branch of the Expenditure to the payment of Rent, which can be more conveniently provided for.

Delay in granting clergy and school estates.

I am now satisfied it would have been better to have delayed issuing the Charter* and establishing the Corporation until the arrangements* for delivering over the Lands were completed. But it was impossible to foresee the delay, which has taken place, and I am not aware it could have been prevented. The long and severe illness of the Surveyor General has at length obliged me to appoint Major Mitchell, the Deputy Surveyor General, to assume the charge of the Department and I trust in a very short time to be enabled to put the Corporation in possession of such a portion of Land as will at least enable them to commence some Systematic plan of proceeding.

I should therefore, Sir, with your permission, delay the consideration of the question proposed in Earl Bathurst's Despatch above referred to, trusting that the temporary arrangements, which have been made by the Archdeacon for supplying the deficiency of more regular School Houses, will answer the purpose for the present.

Method for sale of church lands.

As to the most eligible mode of disposing of a portion of the Church lands, I am not aware of any one preferable to that which has been adopted by the Trustees in selling the Glebe Lands at Sydney, Parramatta and Liverpool. These lands were disposed of by public Auction, the Purchasers paying a deposit of 10

* Note 25.

per Cent. on the Sum bid, and binding themselves to pay 5 per cent. on the remaining portion of the purchase Money, having the option of paying up the Balance at any time within 21 Years; at the expiration of which period, the whole of the purchase Money is to be paid, or the Land according to the Conditions of Sale is to be resumed by the Trustees. 1828. 27 March. Method for sale of church lands.

This Mode was suggested by Mr. Oxley, the Surveyor General, as a likely means of producing good Prices, the legal Interest of the Colony being 8 per Cent.

It may be proper to state in this place that the Incumbents are allowed by the Trustees £100 a year in lieu of the above Glebes, and that it has been determined that the Clergymen are not in future to receive any Land as Glebe beyond the 20 Acres immediately adjoining their respective Churches.

I have, &c.,
Ra. Darling.

[Enclosure.]

Archdeacon Scott to Governor Darling.

Sir, Sydney, 25th September, 1827.

I have the honor to acknowledge the receipt of Your Excellency's Letter of the 7th August last, inclosing for my information, the copy of a Despatch from Earl Bathurst, dated 11th December, 1826, No. 102. Letter acknowledged.

In that Despatch, I observe that His Lordship requires specific information on four points, and to these I will now confine myself as briefly as possible.

First, It is required the description and number of Schools which it would be desirable to establish. Report on schools.

I take the liberty of enclosing a list of Parochial Schools (No. 1) which have already been established up to this date, for affording to the population the means of gratuitous elementary Education only throughout the Colony for children of all classes and both sexes until 10 Years of age; after which, such children, as can afford it and remain in the Schools, are required to pay three pence per week, but of these there are scarcely any. In the Sydney Free School, one class has been established to teach the Latin and English Grammars, Mensuration and the higher branches of Arithmetic, for which the Scholars pay fifteen shillings and one pound per quarter, according to their progress in the Class.

At these schools, there were at the Half Year, ending on the 30th June last, *1,245* names on the books, but of whom not more than *862* attend with regularity.

The only addition, I now propose, or ever contemplated for the present, is one Grammar School for the admission of sons of

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persons whose means could only afford a moderate sum towards such an object.

Probable expenditure.

The expence to the Trustees of the Clergy and School Lands would only be the Salary of the Master, which would be £150 or £200 per year, if he were one of the Chaplains, in addition to his Chaplainey; otherwise I do not suppose any competent person could be obtained, with all the disadvantages he would labour under of expensive living in this Colony, for less than £500 per annum.

Sites proposed for schools and parsonages.

Secondly. It is required to state the situations in which such buildings should be erected.

The King's Charter requires one Primary School in each Parish, where there is a sufficient population to warrant such an Establishment.

In my Report to Your Excellency, dated 31st July, 1827, I submitted a list of such places as required Parsonages, Schoolhouses and Burial Grounds, distinguishing those requiring immediate attention from those where they are now rented.

At present we pay a rental of £580 per annum for Parsonages, and £95 for School houses, and, since the Year 1819, £2,100 have been sunk in rent, which would have built several respectable buildings either for Parsonages, Chapels or School houses. Taking this expence into consideration, I beg to enumerate a list of places, where Parsonages and Schoolhouses are required, and to point out the saving there would be in erecting them.

First Parsonages.

Sydney, St. James' Parish; Campbell Town; Narellan, Cornelia, down the river Hawkesbury; Medway or Bong Bong; Port Macquarie; Morpeth or Whittingham; Brisbane Town.

Secondly Schoolhouses (to be used as Chapels).

Cornelia; Castle Hill; Minto; Narellan; Penrith; Shoalhaven; Medway or Bong Bong; Kelso; Morpeth; Whittingham; Brisbane Town; Port Macquarie.

The estimated cost of erecting such edifices is as follows, viz.:—

8 Parsonage Houses at	£500 ea.	£4,000
12 Schoolhouses	£100 ea.	1,200
Total		£5,200

Five thousand, two hundred pounds sterling, the annual interest upon which sum would at 8 per cent. be £416, being £164 less than is at present paid annually for the rent of Parsonages alone.

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At these places, although Schools are held, yet they are either in Bark huts or hired Cottages and, in some instances, we are indebted to the liberality of private individuals, and to the Dissenters for their Chapels, much to their inconvenience and our own. And in the Winter, the Children cannot attend on account of the inconvenient distance of some and the bad state of repair of others.

Inferior accommodation for schools.

Thirdly. It is required to be stated in what parts of the Colony these Establishments are wanted immediately, and where they may be defined. If it is considered more expedient to continue the present rental of houses than to build them, the following only will be required:—

Buildings immediately required.

First Parsonages.

Medway, or Bong Bong; Port Macquarie; Brisbane Town.

Secondly Schoolhouses.

Cornelia; Castle Hill; Penrith; Medway; Kelso; Morpeth; Whittingham; Port Macquarie; Brisbane Town.

Fourthly. The best and most practicable mode of disposing of a portion of the property, which has been given up to the Churches and Schools, is required.

Method for disposing of clergy and school estates.

Upon this subject, I would respectfully beg leave to submit to Your Excellency the propriety either of disposing by public sale of such portions of the Church and School Lands as may appear most eligible, of which there must be many detached pieces, which could not be let to any advantage, or of borrowing the sum required on the principle of the Building Act in England.

The former would unquestionably be the more advantageous, inasmuch as the rate of Interest in the Colony is at least eight and sometimes ten per cent., and it would cause the least delay. The Charter gives the Trustees power to do both.

Upon conversing with Your Excellency on this point, I believe it appeared to you most expedient that the Surveyor General and Land Commissioners should be consulted and called upon to make a special report.

In consequence, I have had several meetings with those Gentlemen, and the report they have prepared for Your Excellency on the subject will put His Majesty's Government in possession of the desired information.

With regard to the Expenditure, I do myself the honour to annex the fixed annual amount of stipends, and other expences under the various heads, together with the proposed increased expenditure.

I have, &c.,

T. H. Scott.

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List of schools.

[Sub-enclosure No. 1.]

List of Schools established in the Colony of New South Wales prior to the 1st September, 1827.

Infant Schools.

Sydney.—St. Philips; St. James'; Clarence Street.

Parochial Schools.

Sydney; Parramatta; Field of Mars; Castle Hill; Prospect and seven Hills; Dundas; Baulkham Hills; Liverpool; Campbell Town; Lower Minto; Kirkham; Bringelly; Appin; Richmond; Windsor; Wilberforce; Portland Head; Sackville Reach; Pitt Town; Hawkesbury River; Bathurst; Illawarra; Newcastle; Morpeth; Whittingham; Cumnaroy; Browley or Medway; Port Macquarie; Moreton Bay.

[Sub-enclosure No. 2.]

Annual expenditure on churches;

Annual Ecclesiastical Expenditure.

	£	£
Stipend of the Archdeacon	2,000	
do of Senior Chaplain	400	
do of two next en. £300	600	
do Ten do at £250	2,500	
Clerks, Sextons, etc.	700	
Rent	580	
Expences allowed to Chaplains on distant journeys and inspecting Schools	300	
		7,080
Proposed Increase.		
Stipends of two Chaplains not yet arrived	500	
Rent for do	200	
Proposed Increase of Stipends to Chaplains	2,000	
		2,700
The Repairs incurred from March, 1826, to March, 1827, amount to		996
Total		£10,776

There is no probability that the item of repairs can be reduced.

and on schools.

Annual School Expenditure.

	£	£
Salaries to Masters and Mistresses of Primy. Schools	1,080	
Rent	95	
Repairs (during the past Year)	1,100	
Books and Contingencies	250	
Male Orphan School	1,500	
Female Orphan School	2,000	
Aboriginal School	400	
		6,425
Expences incurred in management of the Trust pursuant to the Charter		750

Summary of expenditure.

Recapitulation.

Annual Ecclesiastical Expende.	10,776	
Annual School Expenditure	6,425	
Expences incurred in managing the Trust	750	
		17,951
Total Expenditure		£17,951

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828. 27 March.

(Despatch No. 49, per ship Eliza; acknowledged by Sir George Murray, 25th May, 1829.)

Sir, Government House, 27th March, 1828.

I do myself the honor to transmit for your information, the accompanying Copy of a Letter addressed to me by the Venerable the Archdeacon with Returns of the State of the public Schools of this Colony on the 31st of December, 1826, and the 30th of June, 1827. Transmission of returns.

I have, &c.,

RA. DARLING.

[Enclosure.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Sydney, 27th September, 1827.

I do myself the honor of transmitting to Your Excelleney for the information of His Majesty's Government, the state of the Public Schools of this Colony at the Half Yearly periods stated, Vizt., to the 31st December, 1826, and to the 30th June of the present Year.

I have, &c.,

T. H. SCOTT.

[Sub-enclosure No. 1.]

A RETURN of the Average Attendance of Children at the Public Schools in New South Wales From 1st May to 31st December, 1826. Return of attendance at schools.

Name of the School.	Number belonging to the School.	Average Attendance. Boys.	Girls.	Total.
Sydney Public School	88	43	15	58
do Infant School	51	18	9	27
do do	130	32	28	60
do do	64	17	25	42
Parramatta	75	38	12	50
Campbell Town	38	9	8	17
Cooke	23	7	9	16
Lower Minto	26	7	7	14
Castlereagh	8	5	2	7
Penrith	35	15	10	25
Liverpool	45	19	12	31
Male Orphan	101	82	..	82
Female do	129	..	79	79
Wilberforce	41	17	12	29
Windsor	71	30	19	49
Sackville Reach	22	11	6	17
Richmond	42	16	14	30
Pitt Town	23	12	6	18
Portland Head	13	3	6	9
Field of Mars	13	7	3	10
Dundas	17	5	5	10
Prospect and Seven Hills	14	7	4	11
Newcastle	39	14	13	27
Port Macquarie	46	21	17	38
Moreton Bay	16	8	8	16
Bathurst	17	7	5	12
Appin	22	6	4	10
Bringelly	11	3	7	10
Totals	1,220	462	342	804

T. H. SCOTT, Visitor.

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Return of attendance at schools.

[Sub-enclosure No. 2.]

A Return of the Average Attendance of Children at the Public Schools in New South Wales To June 30th, 1827.

Name of the School.	Number belonging to the School.	Average Attendance. Boys.	Girls.	Total.
Sydney Public School	106	39	15	54
do Infant School	128	41	38	79
do do	75	36	9	45
do do	73	21	23	44
Parramatta	67	39	14	53
Campbell Town	28	9	7	16
Kirkham	18	5	8	13
Lower Minto	26	7	7	14
Penrith	55	21	14	35
Liverpool	36	19	10	29
Male Orphan	82	59	..	59
Wilberforce	31	14	11	25
Windsor	66	25	25	50
Sackvill	37	13	7	20
Richmond	47	15	12	27
Pitt Town	20	8	3	11
Portland Head	12	8	1	9
Field of Mars	16	6	2	8
Female Orphan	114	..	114	114
Prospect and 7 Hills	22	8	4	12
Newcastle	30	12	10	22
Dundas	13	3	3	6
Port Macquarie	31	17	12	29
Appin	31	13	8	21
Bringelly	15	4	6	10
Castle Hill	18	9	7	16
Baulkham	14	6	5	11
Illawarra	11	4	3	7
Moreton Bay	16	8	8	16
Browley	7	3	4	7
	1,245	472	390	862

T. H. Scott, Visitor.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 50, per ship Eliza.)

Sir, Government House, 27th March, 1828.

Despatch acknowledged.

1st. I have been honored with the receipt of Lord Viscount Goderich's Despatch No. 18, dated the 6th of July last, in reply to a report* which I had transmitted from the Venerable the Archdeacon on the Subject of the Civilization of the Aborigines.

Problem of civilization of aborigines.

2d. As I quite concur in the inexpediency of prosecuting this object, until it can be Undertaken on an extensive Scale, which in my opinion would afford the only chance of Success, I have prepared a Letter for the Archdeacon, who has been for some time past at Van Diemen's Land pointing out the expediency, as suggested by Lord Viscount Goderich, of his exertions in this respect being confined to obtaining such information as may prove useful whenever His Majesty's Government may be prepared to prosecute this important object with a better prospect of success than Circumstances at present admit of.

* Note 26.

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3d. I have hesitated, Sir, whether, in this view of the Matter, I should trouble you with a Second Report on the Same Subject, which I received from the Archdeacon some time since, and I have now only thought it proper to do so that you may be in possession of the information which has been obtained and not with any view of recommending a deviation from the course suggested by Lord Viscount Goderich.

Problem of civilization of aborigines.

4th. Without entering minutely into the question, with the importance of which I am however fully impressed, I may observe that, to afford a chance of the Measure being effectual, it must be extensive and the Expense would be considerable. It would not be sufficient that the arrangements were on a large Scale. The Individuals employed, in addition to a variety of other qualifications, should possess the most persevering and unabating Zeal. Much stress I observe is generally laid on the circumstance of acquiring a Knowledge of the language of the Natives. But I understand the language is by no means general and that the Tribes (which commonly consist of only a few Persons) inhabiting different parts of the Country are unable to converse with each other when they meet. Besides it does not appear that any advantage has been gained by the Natives acquiring our language, which many of them speak with singular fluency and correctness. Some of these, to whom I have spoken, were brought up at the School established by the late Governor Macquarie, and learned not only to read but to write. They returned however to their Tribes as soon as their Education was finished, and have remained with them in the Woods, though accustomed for some considerable time to the Comforts of a House, good food and Clothing.

5th. I have stated these facts, Sir, not with any view of arguing upon them myself, as I have had but little time to reflect on the subject. But they may, Sir, not be totally useless when convenient to take it into consideration.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Archdeacon Scott to Governor Darling.

Sir, Sydney, 1st August, 1827.

Report on proposed civilization of aborigines.

1. His Majesty having been graciously pleased to command that I should take steps for the Civilization and Education of the Native Inhabitants of this Colony, and report to Your Excellency my Proceedings for the information of His Majesty's Government, I have now the honor to lay before Your Excellency an abstract of those Proceedings together with some observations on the subject.

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2. Some time elapsed before a Person could be found calculated to enter upon the subject, and capable of making with accuracy the necessary Enquiries in the Interior and amongst the Natives themselves. Towards the close of last Year, a Gentleman named Sadleir arrived here, strongly recommended to me as being every way qualified for such an undertaking, and, after several interviews and conversations with this Gentleman, I took the liberty of recommending him to Your Excellency to be employed on this Service, and, by a Letter from Your Excellency to the Trustees of the Church and School Lands, he was fitted out and provided with such necessaries as were deemed requisite. At the same time I delivered to him Instructions, as to the objects he should keep in view, a copy of which I have the honor to annex, and, in the beginning of December, Mr. Sadleir entered on his Expedition.

Inquiry made by R. Sadleir.

3. In the mean time, I proposed to the Trustees that a separate School should be formed in some part, not too distant, but at the same time quite apart from any Town, at which such Children as could be got should be placed. This was fixed at a place called Black Town, about 14 Miles N.W. of Parramatta, and a Person named Hall with his Wife, well qualified for the undertaking, were placed there to conduct the Establishment. I caused such Black Children, as were in the Male and Female Orphan Institutions, to be removed there, and directed Mr. Hall to continue the Common Elements of Education, in which they had been previously instructed, but at the same time to devote a large portion of their time to work, the Boys to be taught Carpentering (he having been bred up to that Trade) and the Girls plain Needle work by his Wife. Mr. Hall having a very religious turn of mind, I directed him to give these Children religious Instruction, and at the same time to Read the Church Service and short plain Discourses on the Sunday to the Parties of Convicts employed on the Roads in that Neighbourhood, and thus uniting with his other occupation a very important matter in this Colony.

School for aborigines formed at Black town.

4. The time has been too short to pronounce decisively on this experiment; but, as the Trade of a Carpenter is cleanly, useful, and capable of being carried on in a Shed under the Eye of the Master, I preferred it to any other as the best calculated to Civilize them, and destroy their erratic Habits, which are so strongly implanted in them that, until these are got under, little hope of success can be expected. One of these Boys aged 17, who had been bred up at the Male Orphan School, was apprenticed to a most respectable Person in Sydney, Mr. Thorp, Assistant

Instruction in carpentering.

Engineer to the Government, to learn the Trade of a Builder. After remaining about 10 days, I regret to say the Boy ran away into the Woods, and, although the Police has been Searching for him, no intelligence has as yet been received of him. 1828 27 March.

5. Whilst Mr. Sadleir was occupied in the Interior, I wrote a Circular Letter explaining His Majesty's graeious intentions to the Principal Persons in the Colony, who, by their long Residence, their intercourse with the Natives, and the attempts they had made to accomplish this object, might afford me much information and assistance in laying before His Majesty's Government the probability of success in this undertaking. Mr. Sadleir being now returned, without troubling Your Excellency with a Detail of his Reports, or of the Answers with which I have been favored, I shall enter on an analysis of the subject. General information collected.

6. From the various answers I have received, there is no difference of opinion—1st. as to the difficulty of the undertaking; 2nd. as to a complete failure in a great variety of experiments made with great attention, perseveranee and Expense; 3rd. The almost utter impracticability of Keeping them from any contact with the Convicts, who are Stock Keepers at the distant Stations, and whose vicious propensities and examples they see and imitate; 4. The very great Expense attendant on any experiment on a large Scale, the only chance of any success; 5. The very slow progress of such an undertaking, and, when the encreasing European Population is considered as well as their Flocks and Herds, the probability that, in the mean time, the few Tribes scattered over a large space of Land, will be exterminated; 6. and lastly, The very doubtful probability, after such an Expense has been incurred, that any beneficial results will take place, or at least of so trivial a nature as to counterbalance the very great Expense. Unanimity of opinion on certain points.

7. From Mr. Sadleir's report, after an absence of 5 Months, during which time he made a circuit of about 750 Miles, I have collected the following results:—1st. There is *on the whole* a good understanding between the Stock Keepers and Blacks with some exceptions; 2nd. That in general the Blacks are the aggressors; nevertheless a failure in a promise made to them is never forgotten or forgiven, nor can they brook abusive Language, or ill treatment to themselves and especially to their Dogs; 3rd. That illicit intercourse exists between the Stock Keepers and the Women; 4th. That the intercourse with the Convicts lead to Drunkenness, Debauchy, Profane and obscene Language and Disease. It is however to be remarked that a Local Disease of a very horrible nature exists amongst the Natives, General report by R. Sadleir on aborigines in the interior.

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General report by R. Sadleir on aborigines in the interior.

arising from their extreme filth, and this in general is communicated to the White Population, more frequently than the reverse. The Blacks become well acquainted with the strength and force of Stock Keepers, and then take advantage of the weakness of the latter, and endeavour to take Provisions by force, and, if resistance is made, the consequence is sometimes fatal to the Stock Keeper; 5 instances are given. 5. That it would be advisable for Stock Keepers to have their Wives sent from England to them. 6th. The intercourse with each others tribe was not so common before the White Men were amongst them as it is now. 7. They are suspicious and revengeful to a great degree, and never forget an injury, or even an imagined injury done to them. 8. The chief causes of their disputes is from the abduction of their Women by one another, generally in the Night. 9. That they live to a good old age, in one instance from a calculation made, the Man must be at least 75. 10. Their Habits are indolent in the extreme, and nothing but Starvation will urge them on to seek for Food. Some instances of labouring for subsistence in a small degree have occurred. Their energies are awakened by the Chase, by War, or by Plunder. 11. They depend chiefly on the quickness of their Eye in search of Food, Since they can distinguish whether the Scratches on the Bark of a Tree by an Animal are recent or not, and accordingly they climb in search of it Trees 80 and 90 feet high, with extraordinary celerity. 12. In the Winter, they are so pressed for Food, as to Eat their own Blood, congealed and mixed with Snow, and there is strong reason to believe they will devour their own Children. 13. They have but few Resources to Medicinal Herbs in Sickness, when they suffer greatly, and often Die under it. 14. Their wants are Tomahawks, Fish Hooks, Clothing, and relief in sickness and old Age; and, by their frequent intercourse with the White People, Shirts, Tobacco, Pipes, etc., become necessaries of Life to them. 15. There is no chance of distant Tribes consenting to send their Children to the Establishment at Black Town. 16. They express a desire to have their Children Educated, and expect it with some eagerness. 17. From the best calculation and numeration made during this Journey, it does not appear that there are more than 4,500 Souls, Divided into 31 Tribes, averaging about 147 to a Tribe, the largest number being 242, and the smallest 10, The average number of Children being 3 to a Family, and that each Tribe occupies a Space from 20 to 30 Miles Square. 18. It would be most desirable to attain their Language and to reduce it to such a system, as, by instructing them in it, a mutual intercourse might be

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General report by R. Sadleir on aborigines in the interior.

kept up between them and the White Population. 19. That, as our Interests advance, their Misery and extinction are most positive, and that, unless some immediate steps be taken to relieve them, that extinction will take place in the course of the next 30 Years.

Proposed methods for civilization of aborigines.

8. From the observations made by Mr. Sadleir upon the Habits of these People, he proposes 1st. That, as their wants would have been created by our intercourse with them, they should be periodically supplied with Provisions and Clothing, distributed in the way of remuneration for Labor, for Services or good conduct, thus making them sensible of the intentions of Government towards them; 2nd. an acquaintance with our Laws he considers would have the effect of introducing some Kind of Discipline, and urging the friendly Blacks to interpose with those more distant and Wild; 3rd. That a very active and, for this purpose, a truly constabulary force and Mounted Police be established, also a Resident Magistrate, to whom both parties could appeal, and who, by his local Knowledge and personal intercourse, would be enabled easily to judge between the contending Parties; also that a Catechist or Missionary be sent amongst them, whose qualifications must be very peculiar; "He must possess a facility of acquiring Languages, a body and Mind equal to Hardships, for he should at times travel among the different Tribes, a steady zeal and entire devotedness to the great cause he is engaged in, an ardent Love for the good of his fellow Creatures, Kindness, yet firmness of Resolution, a readiness to yield to their little prejudices, and possess such a fund of morality and vivacity of temper and disposition, as would ever keep them alive, and make their Work more like amusement than Labor, and he should be a Married Man;"; 4. That all the Overseers of Stock should be free, and they should have their Wives and Families sent out to them by Government; 5. That three Establishments should be selected as remote as possible from the White Population, one on the Manrum bidgee River to the South, another about 80 Miles below Wellington Valley to the West, and another on or near Peel's River to the North, and that a minor Establishment be fixed between each, so as to form a link in the Chain of communication; one on the Shoal Haven River to the South, another in Murrawarry Plains to the West, and one near the Mudgee Tribe, between Bathurst and the Goulburn River to the North; 6. That, as these Establishments are formed, others will Spring from them; 7. At these Stations, it is proposed to unite Farming occupations with Instruction; that Hard Labor should not be forced on them; but

Proposed establishments for aborigines.

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that they should be taught the nature of that Labor by feeling the benefits of enjoying and living on the Produce. There is a variety of details as to their management and treatment, not necessary to enter upon in this Report, as they must differ as circumstances arise, and much must be left to the discretion of the Missionary; 8th. The very lowest rate of Expenditure, which can be calculated on for each of the *Principal* Stations, is £500 per Annum, and for four of the minor Establishments £400 each, forming an Annual Expenditure on the whole of nearly £2,000 per Annum; this is on a scale calculated for one Missionary, three Men and Six Families of Blacks, in all consisting of 34 Souls.

Adverse criticism of prospects of success of proposals.

9th. On this report of Mr. Sadleir, I take the liberty of submitting to Your Excelleney, the following Remarks:—1st. That, from Enquiries amongst long established and experienced Persons, the result of which I have stated in the 8th Paragraph of this Letter, scarcely any hope remains of success. 2nd. That to find Persons so qualified to fill the various departments Mr. Sadleir proposes such as Magistrates, Constables, School Masters, Missionaries and attendants in this Colony, is impossible, and I doubt much whether they could be Selected even in England, to be relied on when they have arrived here, and when they have been planted on the several Stations. My own experience here proves the Contrary; and, when the nature of the Free and Convict Population is considered, the chances are still greater against it. 3rd. The rapid increase of Flocks and Herds and the very large extent of Ground, which they require to depasture on, will extend to such a distance as to render the proposed Establishments in a very few Years in the heart of the White Population, instead of being at a considerable distance. As a proof of this I need only state to Your Excellency that Six Years ago the Stock of only a few Individuals extended to a distance of 150 Miles West of Sydney, but that now in every quarter at the same distance from Sydney, to the North, to the West, and to the South, there are Hundreds of Stations, and thousands upon thousands of Stock. If therefore a proportionate increase shall take place of Stock, and I see no reason that it will not, whilst the very slow operations of forming the seven Stations proposed for the Blacks, and the still slower progress of Civilizing them be considered, I think it is a fair conclusion, which I have just now drawn, as to these Establishments being overwhelmed, and the very object of avoiding contact will be defeated. 4. That, in this calculation of Seven Establishments which are to cost £2,000 per Annum, Provision only for 2 or 300 Persons is

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calculated on, whereas there are 31 Tribes, consisting of about 4,500 Souls who will expect immediate relief; and the extreme jealousy and suspicion, which are well known to arise, if one or a few be preferred to the rest. These People expect all to be satisfied at the same time, or retire in disgust, being impatient of restraint and of expectency. 5. If one Establishment be formed, and should the Missionary be enabled to bring several Tribes together, and he be not furnished with a sufficient Quantity of Food to Supply them, whenever they demand it, they will separate for the same reason. It will be impossible in one Year or two to Cultivate Land in sufficient Quantity to provide Food for that number, even if it could be raised at a cheaper rate than procured by Purchase. To support a small Establishment of 34 Persons, 15 Acres of Wheat will be required, and not less than One Year could be calculated on to provide and get ready that Quantity. During this time Flour must be Purchased, and carried 150 or 200 Miles by Land, and then will be found all the Heart Burnings, jealousies, suspicion and Revenge amongst the Hundreds, who are not fed, at seeing only a few partake of the Provision. I am fully convinced that, unless the measure be entered on at once, and on a large and simultaneous Scale, it would not be wise to undertake it at all. How far Your Excellency may think His Majesty's Government may, in these times when our own Children are not yet provided with the means of Education, be disposed to authorise such an Expense, it is not for me to anticipate. I can only say that, if I have Your Excellency's sanction for the Undertaking, no pains nor exertion on my part shall be wanting to fulfil His Majesty's Benevolent intentions.

Adverse criticism of prospects of success of proposals.

10. In forming this Establishment, I ought to state to Your Excellency that the Auxiliary Committee of the Church Missionary Society, established here, have entered on the subject, and offered to co-operate in this undertaking, and, by an answer from the Revd. Richard Hill, I learn they are disposed to contribute to the Amount of One Half per Annum towards the object. Two Persons belonging to that Society have engaged in it, and have proceeded to the Interior as a commencement.

Assistance offered by church missionary society.

11. It appears to me, and I venture to submit this opinion to Your Excellency's consideration, that in the present instance we should employ these two Persons together with Mr. Sadleir in attending to the formation of a Day School for the Children of both Natives and Europeans at the places where they are to reside, and that Mr. Sadleir should go amongst the Natives further on to engage their confidence, and act as an arbiter between them and the Settlers in different parts of the Country. I should

Day school proposed.

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Rewards proposed for aborigines.

also submit that, where Services have been performed, Blankets and a Ration be given them on a moderate scale, and that these schools be kept open ready for any children whose Parents can be prevailed on to part with them; that if a Mounted Police be formed (with which I do not pretend to interfere, being a matter for Your Excellency's peculiar province), it be effectual on the *Defensive* system only, leaving to Settlers the means of rewarding with Provisions according to their own Judgment, as has hitherto been the practice.

12. I cannot conclude this Letter to Your Excellency without adverting to a Statement recently put forth by the Wesleyan Society in England from the information transmitted by the Auxiliary Mission here; they have stated on the authority of a Mr. Harper, one of their Missionaries here, who came out as a free Servant to a Gentleman, that near Wellington Valley appeared a Tribe of 3,000 Souls, all Speaking one Language and being desirous of conversion to Christianity. The following is the result of Mr. Sadleir's Enquiries on this subject, to which I directed his attention.

Report made by Harper.

Report by R. Sadleir on aborigines in Wellington valley.

1st. That no one Tribe exceeds 260, and that in a space of two Degrees of Latitude and 3 of Longitude from Wellington Valley, far beyond Mr. Harper's limits, there are not at the most 2,000 Souls. 2nd. That amongst four Tribes nearly the same Language is to be found, with several exceptions. 3rd. That they wish a Person to live amongst them, who would satisfy their temporal wants by the distribution of Food, Presents, etc., beyond which they do not expect anything. 4th. That a School for 10 or 12 Scholars was established, but not one of them could Read or even do more than write a few Letters or figures on Sand, and one could say The Lord's Prayer by rote. 5. That the Parents were perpetually enticing their Children to run away from the School, which also operated against their Learning anything, and finally Mr. Sadleir Remarks, in stating to the Public the progress and proficiency of his (Mr. Harper's) Scholars, "I could discover nothing to bear out the impression made by his Reports on the Public Mind, and fear that, at the expense of Christian Sincerity, he has attempted to recommend himself to his Employers." The whole of this has been confirmed to me by one of the Society, who, from the very first, placed no reliance on Mr. Harper's Statement. 13. To conclude this subject with my own opinion, founded on not an inattentive or hasty Examination, as well as personal observation in my several Visitations, I am thoroughly satisfied that, unless the Government are prepared to go the length of feeding and

clothing the whole of them (4,500) at an immense Expense, and that constantly, not the least progress will be made either as to Civilization or Conversion. 1828. 27 March.

The only one, who has Cattle given by the Late Governor Macquarie which have increased under a Person paid for it, but totally neglected by himself, is called "Creek Jemmy," who often asks me to Sell them for Money in order (to use his own Words) he may "*Buy a long Coat and Cocked Hat, and be a Swell,*" a Colonial phrase for a well Dressed Convict; and, although a Ration has been allowed him and his Son, expressly on the Condition of the latter leaving his Child at the School at Black Town, yet he has taken her away, and will not suffer her to return on any Consideration whatever. I have, &c., Example of aborigine owning cattle.

T. H. Scott.

[Enclosure No. 2.]

Archdeacon Scott to Mr. R. Sadleir.

Sir, Parramatta, 29th July, 1826.

1st. In consequence of the Testimonials to your Character and ability, I have submitted your Name to the Governor as a Person qualified to undertake the Civilization of the Black Natives of this Colony, with a view to further the benevolent intention of His Majesty as Commanded by the Instructions, and His Excellency has been pleased to approve of your appointment at a Salary of Ten Shillings per day and such other Expenses as I may deem neeessary. Instructions to R. Sadleir *re* aborigines.

2d. As soon as you can prepare the necessary matters for your Equipment, you will proceed on your Expedition and, in the first instance, towards that part of the Country called Argyle. Here you will present your several Letters of introduction, and, I doubt not, the Gentlemen to whom they are addressed will give you every assistance in their power.

3. The objects you should keep in view are to make yourself acquainted with the Habits and wants of these Black People, and endeavour to impress them with the wish, there is of the Government, to make their Situation more happy by being acquainted with the Customs of the Civilized World. That there is a great wish to bring them and their Children up to the views we entertain of Religion, and all its consequences and happy results, and that, by these acquirements, they will know the necessity of becoming obedient to our Laws, which will ensure to them protection from oppression.

4. Should you be enabled, either by acquiring their own Language or through an Interpreter, it should be made known to them that no force will be employed, and that nothing will be done contrary to their Will.

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Instructions to R. Sadleir *re* aborigines.

5. It would be very desirable to ascertain their Numbers, Male and Female, as well as Children, and, if possible, their ages; what would be most desirable to them as Presents; Whether proper Persons among them can be Selected as Chiefs or Leaders, who can be relied on to influence the Tribes with a favorable impressions on our views of Civilization; To induce them to send their Children at an early Age to the School at Black Town where they will be taught such Trades as will enable them to Live by the Produce of their own Labor.

6. It would be very desirable for you to possess yourself with the reasons they have, if that be possible, for their Ceremonies and usuges, motives for War, as well as declining to become Civilized, or parting with their Children, and whether they are permanently susceptible of being aware of the advantages held out to them. Under this Head, Enquiries as to the Capacities, the usual subjects of disputes with each other, and especially with our own People, and whether there has been, and still is, any intercourse with them; to what extent, its nature and effects, produced by it, would be most desirable.

7. You will be pleased to make Communications to me, from time to time, as opportunities may offer, not exceeding an intervening space of One Month, if possible; and I will thank you to arrange your Subjects, in Separate Paragraphs, each being numbered.

8. There may be some points I have not adverted to, but as you are well aware that the object of His Majesty's Government is to Civilize and to convert to Christianity these unhappy beings, every thing which your own good sense can suggest to you on this Head, I feel perfectly confident will not be omitted; and in such Confidence, I have only to recommend to you caution, accuracy and perseverence, and to assure you of my sincere wishes for your success through the aid of the Almighty, which they have who do His Commands. I remain, &c.,

T. H. Scott.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 51, per ship Eliza; acknowledged by Sir George Murray, 26th November, 1828.)

28 March.

Sir, Government House, 28th March, 1828.

Organisation of office of colonial secretary.

I had the honor, in my Despatch No. 110, dated the 27th of October last, to bring under the consideration of Lord Viscount Goderich the arrangement which I had felt it necessary to make for more appropriate division of the Duties heretofore carried on in the Office of the Colonial Secretary. The Minutes.

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which accompanied that Despatch, will explain the view which I took of this Matter, and, as the object is to place the Business of the Government generally on the most simple footing, and to prevent the Departments interfering with each other, I trust, Sir, you will consider the arrangement I have made calculated to answer that important purpose.

Clerks for superintendent of convicts.

2d. In my Dispatch of the 2d of October last, No. 96, I pointed out the grounds on which I had felt it necessary to authorise the employment of two additional *free* Clerks in the Office of Principal Superintendent of Convicts, one only having been previously employed in that Office.

Revision of duties in office of colonial secretary.

3rd. The arrear of Business in the Colonial Secretary's Office and the necessity of affording him further assistance induced me to revise the arrangement of his Office rather with a view of ascertaining whether it might not be advantageously relieved from some of the Business it had hitherto performed, than to augment the Establishment. My Minute of the 10th of October last, which accompanied my Despatch of the 27th of that Month, referred to above in Paragraph No. 1, was the result of that investigation.

Report on duties in office of superintendent of convicts.

4th. In pursuance of the arrangement directed by that Minute, the Principal Superintendent of Convicts was called on to report in Detail the Nature and extent of the Duties, which would devolve on him, and further to State what additional assistance would be necessary in his office.

5th. I do myself the honor, Sir, to transmit for your information the accompanying Copy of a Report received from Mr. Hely in consequence, which details fully the additional Duties transferred to his Department under the New Arrangement, as well as those heretofore performed in his Office.

Clerks appointed.

6th. It will be observed Mr. Hely considers that three additional Clerks will be necessary. Under present Circumstances, but as he has expressed his readiness to ascertain whether two may not be sufficient when the Office is more Systematically arranged, I have authorised the employment of this additional Number, and I do myself the honor to enclose, Sir, for your information a Return of the Clerks with the Salaries they receive, who are at present employed by him under the New Arrangement.

Duties of principal superintendent of convicts.

7th. I ought not to close my Despatch without pointing out that the Duties, which belong to that Department, comprise not only a great variety of heads, but are of an extremely extensive Nature. The Principal Superintendent is required to keep exact Returns of all the Convicts Maintained at the Expense of Government, and these consisting generally of from 4,500 to 5,000 in

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Duties of principal superintendent of convicts.

Number are dispersed throughout this widely extended Colony. In addition to this, it being considered necessary that the Government should be in possession of such information with respect to every Prisoner of the Crown, though in the employment of Individuals, as would enable it to judge of his Character, the Superintendent is required to Collect Returns, from the different Benches of Magistrates and Register the same in his Office. He is also charged with the forwarding all Men, who are assigned and receiving such as are returned to Government. I could enlarge on these details to an almost indefinite extent, if it were necessary further to satisfy you of the expediency of the arrangement which has been adopted. I should rather indeed have abstained altogether from troubling You on such a Subject, but I am anxious you should feel assured that no Expense is undertaken without the most absolute necessity, and that no pains are spared to ascertain this necessity before the Expense is incurred.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Mr. F. A. Hely to Colonial Secretary Macleay.

Sir, Principal Supt. of Convicts Office, 7th March, 1828.

Report by F. A. Hely on duties in office of superintendent of convicts.

In reply to your Letter of the 23rd Ultimo, referring to mine of the 14th of the same Month on the subject of certain alterations and appointments in this Department therein proposed, I beg to acquaint you that these alterations are merely the removal of such as are Prisoners already employed therein from one Class to another.

With reference to the latter part of your Letter requesting that, if the Business lately put into my hands has rendered an addition to the number of Clerks in this Office necessary, I should "submit a detailed Report of the same, such as may be forwarded to the Secretary of State, and satisfy His Majesty's Government of the expediency of the measure," I have the honor to inform you (referring to your Letter of the 7th Ultimo) that these additional Duties are:—

The Preparation of Tickets of Leave, and of Certificates of Freedom;

The Examination of Returns and Musters of Ticket of Leave Men;

The Examination of applications for Prisoners to Marry, previous to their being submitted for His Excellency's decision.

All Correspondence respecting the Sentences, disposal, and management of Prisoners of the Crown generally.

These Duties embrace:—

1st. Keeping a correct Record of the Indents of all Prisoners who arrive in this Colony.

2nd. Record of all Colonial Sentences which extend to Transportation whether of Persons, who have been Free, or of Prisoners of the Crown.

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Report by F. A. Hely on duties in office of superintendent of convicts.

3rd. The Preparation of all Certificates of Freedom and recording the same.

4th. The Preparation of all Tickets of Leave, the Collection of the Fees arising therefrom, and the furnishing of the Half Monthly Accounts thereof, in Terms of the Regulations of 20th February, 1827.

5th. The preparation of all Tickets of Exemption from Government Labour granted to Prisoners.

(The Keeping of these Records being of a Confidential nature and the preparation of the Documents therewith connected requiring great exactness, I would respectfully suggest that this Branch of the Business (comprising the first and part of fourth Paragraphs of your Letter before quoted) and the correspondence connected therewith should form the exclusive Duty of one Clerk).

6th. Keeping Record of all Prisoners of the Crown, who have obtained Tickets of Leave.

7th. Keeping Record of all Prisoners of the Crown, who have obtained Tickets of Exemption from Government Labour.

8th. Taking Quarterly Musters of Ticket of Leave holders in Sydney.

9th. Receiving Returns of Musters of Ticket of Leave Holders from the different Out Stations, examining and comparing the same, and making up Returns therefrom for the information of His Excellency The Governor.

10th. Record of these Returns.

11th. All Correspondence respecting Tickets of Leave, and the Holders thereof generally.

These Duties which have reference to the second and part of fourth paragraphs before quoted will require the full time of another Clerk.

13th. The Duty embraced under the 3rd Paragraph of your Letter, it is proposed should be performed by Mr. Steel, a Clerk already in this Office, with whose other Duties it is more nearly assimilated.

In further explanation of these proposed arrangements, I beg herewith to transmit to you a detailed Statement of the Duties performed by the other Clerks at present in this Office, and to acquaint you that the following also form part of the Business transacted therein, with the performance of which no one has hitherto been specifically charged, but which would fully engross the whole time of One Clerk.

1st. Keeping Record of Muster Rolls of all Ships which arrive in the Colony with Prisoners for the General Office use, that to be kept by the Clerk employed in preparing Certificates, etc., being intended exclusively for his use, and to which no one else should have access.

2nd. Registering of Letters received.

3rd. Savings Bank Ledger for Entry of Sums deposited therein by Prisoners of the Crown, and other transactions connected therewith.

There are besides a number of Voluminous Returns, furnished from this Department, and a variety of other Duties of a desultory and undefined nature connected therewith, but which, until the Office arrangements are in some degree of progress, there will be a difficulty in apportioning among the Clerks.

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Report by F. A. Hely on duties in office of superintendent of convicts.

To conduct however the Duties of this Department with efficiency and to the satisfaction of the Government, I respectfully beg leave to submit that the employment of (3) three additional Clerks of respectability will be necessary; but it is indispensable that (2) Two Clerks should be immediately appointed, and it might in the mean time be ascertained how far (with this assistance) the proposed arrangements, connected with this Department, can be carried into effect with that number.

Should His Excellency be pleased to approve of this additional assistance being afforded me, I shall have the honor of submitting the Name of two Candidates for these appointments in a few days.

I have, &c.,

FREDK. A. HELY.

[Sub-enclosure.]

Duties of clerks in office of principal superintendent of convicts.

STATEMENT of the Duties performed by the Clerks in the Office of the Principal Superintendent of Convicts.

Mr. Macalister.

1st. Record of all Settlers who have had Prisoners of the Crown assigned to them.

2nd. Record of all Prisoners of the Crown who have been assigned to Settlers.

3rd. Record of all Mechanics and others Lent to Settlers.

4th. A considerable portion of the Correspondence of the Department, and attending generally to the detail of the Office Duties.

Mr. McGillivray.

1st. Examining and entering in Detail all Requisitions for Slop Clothing for Prisoners of the Crown, and making Abstracts thereof for approval.

2nd. Keeping Alphabetical Records thereof for reference and checking.

3rd Examining and checking Victualling Returns.

Mr. Steel.

1st. Keeping Record of all offences committed by Prisoners of the Crown throughout the Colony.

2nd. Record of all applicants for Tickets of Leave recommended by the different Benches.

3rd. Record of all Petitions transmitted through this Department.

4th. Examining Records and reporting upon all applications for Tickets of Leave, or other Indulgence sought by Prisoners.

5th. Preparing Lists of applications for Tickets of Leave, recommended by the Committee of Magistrates in Sydney.

6th. The Correspondence of this Committee.

Geo. A. Jones.

1st. Entering all the Correspondence of the Department.

2nd. Record of Female Assignments.

3rd. Making up Monthly and Quarterly Returns.

4th. Keeping Account of Tailors and Shoemaker's Expenditure, and of the Articles Manufactured.

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5th. Making up and keeping account of all Requisitions for Stores, with the Expenditure thereof, Under the immediate Inspection of Mr. Macallister.

Duties of clerks in office of prineipal superintendent of convicts.

James Wood.

1st. Keeping Alphabetical Record of Runaways, and of their apprehension.

2nd. Making up Weekly and Quarterly Reports of Runaways and Keeping Records thereof.

3rd. Annual Return of Prisoners who have escaped the Colony.

4th. Keeping Record of Gangs Victualled out of Barracks, and correcting and recording Weekly changes therein.

5th. Monthly Return of Prisoners of the Crown, recommended for the Indulgence of Sleeping out of Barracks, with those who have been deprived thereof.

6th. Assisting in Clothing accounts and other minor Duties under the immediate Inspection of Mr. McGillivray.

Geo. A. Lowe.

1st. Receiving and preparing Lists in Duplicate of all applications for assigned Servants.

2nd. Keeping Records thereof.

3rd. Preparing in Duplicate Lists of all Prisoners of the Crown for assignment.

4th. Preparing Distribution Lists of Prisoners who have been assigned.

5th. Assisting in making up Returns, examining applications for Tickets of Leave. Quarterly Musters of Ticket of Leave Holders and other minor Duties under the immediate Inspection of Mr. Steel.

[Enclosure No. 2.]

Return of clerks employed.

RETURN of the Number of Clerks employed in the Office of the Principal Superintendent of Convicts as fixed by Minute No. 45, dated 24th March, 1828.

No.	Situation.	Names.	Salary per Annum. £	s.	d.
1.	Senior Clerk,	Mr. McAlister	190	0	0
2.	Assistant do	Mr. McGillivre	150	0	0
3.	do	Mr. Ryan	150	0	0
4.	do	Mr. Steel	130	0	0
5.	do	Mr. Kemp	130	0	0

Three Convict Clerks to be placed on the list of Gratuities according to their respective Merits, under the regulations laid down in the Govt. Order, 31 May, 1826, No. 25.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 52, per ship Eliza; acknowledged by Sir George Murray, 13th November, 1828.)

Sir, Government House, 28th March, 1828.

Duties of assistant surveyors of roads and bridges.

I regret to find, by Your Despatch No. 14 of the 10th November last, that I had not sufficiently explained the nature of the Duties of the three Assistant Surveyors of Roads and

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Duties of assistant surveyors of roads and bridges.

Bridges. I had intended to Convey, by Stating that these offieers are employed in the three great Roads* leading to Argyle, Bathurst and Hunter's River, eaeh having *several* Parties of Conviets under his Superintendenee, that their duties were so far different from those of the Overseers that the latter were confined to one Party, while the Assistant Surveyors respectively Superintended the Several Parties employed on the line of Road placed under their immediate Charge, in the same manner as the Chief Surveyor direets and Superintends generally the whole.

Soldiers withdrawn from duty as overseers of road parties.

At the date of my Despateh of the 26th of April, No. 58, the Soldiers of the Veteran Companies and Staff Corps were employed as Overseers with these Parties. But their Miseonduct has sinee obliged me to withdraw them, and Conviets now do the duty of Overseers, who receive a small gratuity aceording to their Merit and responsibility of 6d., 10d. or 1s. 3d. a day, agreeably to a Seale approved by Earl Bathurst.

Returns transmitted.

I do myself the honor, Sir, to transmit for Your information a Statement of the Road Parties employed, shewing the Number of Overseers attaehed to eaeh and the Gratuities they receive.

Expenditure on road parties.

When the eharaeter of the Individuals eomprising the Road Parties is eonsidered, being the very refuse of the whole Conviet Population, combined with the important Undertaking in whieh these Parties are engaged making the great leading Roads throughout the Colony, the very moderate Expense of their Superintendence eannot fail to surprise every one who has had an opportunity of seeing the large and expensive Establishments, which are Maintained at Home for the Charge and Superintendenee of Prisoners; and more particularly when it is considered that the very worst eharaeters are sent out to this Country, and that the Individuals now alluded to form a part of the worst of these, being to use a popular phrase "Double distilled Villains." But, Sir, desirable as it is to keep down Expense, and I will not yield to any one who has the honor to be employed by His Majesty, as more sineerely disposed than I am to promote this object, still there are other eonsiderations whieh I am sure will be allowed their due weight with His Majesty's Government. By this measure, whieh originated with me, and of which the merit or demerits belongs exclusively to myself, *1,260* Men are now benefieially employed, who would otherwise have been eating the Bread of Idleness at a Penal Settlement, or in some other Plaee of eonfinement, oeeasioning a mueh greater Expense than they do at present. Besides the exeessive Numbers to be disposed of

* Note 27.

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would have rendered an additional Penal Settlement necessary, while the Services of these (1,260) Men have been secured at the very Moderate Expense, as I am induced to suppose it with reference to the object, of £1,621 a year.

Expenditure avoided by formation of road parties.

Having stated that an additional Penal Settlement would have been necessary, had these Men not been employed on the Roads, I should observe that even the *first* Expense of such an Establishment is very considerable, Certainly amounting to several thousand pounds, occasioned by the erection of Barracks for the Soldiers and the Prisoners, Quarters for the Officers and subordinate Persons employed, Hospital, Store Houses, and various other Buildings indispensable at all large Establishments, *independent of the Annual Expense* of the Pay and Salaries of the Commandant, Surgeon, and other Officers and Individuals employed, of Stores to Keep the Buildings, etc., in repair, and of a proportion of the Expense of the Government Vessels kept to communicate with and supply the Penal Settlements, amounting to a much larger Sum than the Expense of the Superintendence of these Men, who are lodged in Huts constructed by themselves, without costing the Government even a Nail in erecting.

Convicts employed in road parties.

In saying that the measure now alluded to originated with me, I do not mean to convey that Parties had not been previously employed on the Roads. But the Men formerly so employed were eligible for assignment. I assigned them to the Settlers accordingly, and provided for the performance of the important Work in which they had been engaged by the Individuals in question who could not be assigned, by which a double object was attained.

Thus Sir, I have put you fully in possession of all the circumstances connected with the employment of the Road Parties; and I confess I am particularly desirous, though I regret the trouble it may occasion you, that you should be minutely informed at this early period of your administration of all my measures, as I trust the principle on which they have been adopted and the prudence, with which they have been carried into effect, would Satisfy you, as in the present instance, that there is no disposition on my part to involve the Government in unnecessary Expense.

Salary of superintendent.

With respect to the Salary of 10s. a day given to Mr. Campbell, I beg to state, Sir, that he is a Civilian, and does not hold any other Employment as the other Assistants who are Subalterns in the Army, and he receives no allowance for Horses. His Employment, as I had the honor to State in my former Despatch, was intended to be temporary in order to ascertain

1828. 28 March. whether he was Qualified for the Situation of Assistant Surveyor of Roads, and his Pay of 10s. a day was only equal to the Pay and Forage Allowance granted to the other Assistant Surveyors.

I have, &c.,

Ra. Darling.

P.S.—In alluding to the comparative Expense of the Superintendence of the Road Parties, which at present consist of 1,260 Men, I ought to have stated that they exceed the gross Number of Prisoners at *all* the Penal Settlements, which are as follows, Vizt.:—

Convicts at penal settlements.

Port Macquarie, 532; Moreton Bay, 378; Norfolk Island, 135; Total, 1,045.

Revenue from tolls and ferries.

In addition to this it might also be Stated, that the Receipts for Tolls and Ferries in the Year 1827 Amounted to *£1,211,* which, being Strictly Applicable to the Expences incurred for the making and repairing of Roads, would reduce the charge for the Superintendence of the Road Parties to £410.

R.D.

[Enclosure No. 1.]

Return *re* road parties.

Statement of the Road Parties* employed, showing the Number of Overseers attached to each, and the Gratuities they receive.

Great Western Road, 150 Miles in extent.

Stations.—Grose Farm, 31 Men; 5-Mile Station, 31; Longbottom, 40; 10-Mile Station, 27; 14-Mile Station, 31; Parramatta, 72; Western Station, 57; Prospect, 58; Weather Board Hut, 40; Cox's River, 53; Fish River, 60.

No. of Overseers.—Two Convict Overseers are attached to each Gang, who receive Gratuities under the regulations annexed.

Amount of Gratuities.—£351 6s. 3d.

Great Northern Road, 150 Miles in extent.

Stations.—Windsor Road, 1st Station, 59 Men; Second Station, 50; Third Station, 54; Fourth Station, 57; Fifth Station, 56; Sixth Station, 58; Seventh Station, 58.

No. of Overseers.—Two Convict Overseers are attached to each Gang, who receive Gratuities under the regulations annexed.

Amount of Gratuities.—£223 11s. 3d.

Great Southern Road, 150 Miles in Extent.

Stations.—Liverpool Road, 48 Men; Cow Pastures, 51; Stone Quarry Creek, 51; Bong Bong, 58; Throsby Creek, 41.

No. of Overseers.—Two Convict Overseers are attached to each Gang, who receive Gratuities under the regulations annexed.

Amount of Gratuities.—£159 13s. 9d.

Newcastle Road, 40 Miles in extent.

Stations.—Wallis Plains, 49 Men; Newcastle Road, 70.

No. of Overseers.—Two Convict Overseers are attached to each Gang, who receive Gratuities under the regulations annexed.

Amount of Gratuities.—£63 17s. 6d.

Total No. of Men, 1,260. Total Amount of Gratuities, £798 8s. 9d.

* Note 27.

[Enclosure No. 2.]

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Return of officials in department of roads.

RETURN of Persons employed in the Superintendence of the Department of Roads, showing the duties they perform and the Expenses incurred.

Names.	Office.	Amount of Salaries and Emoluments. £ s. d.	Present Duties.
Lieut. Hughes	Surveyor.....	273 15 0	In charge of the Department.
Lieut. Warner, Royal Veterans.....	Assistant Surveyor—allowance for 2 Horses.	91 5 0	In immediate charge of Parties on the Northern Road leading to Hunter's River.
Lieut. Shadforth	do	182 10 0	In charge of Parties on the Western Road leading to Bathurst.
Mr. P. Campbell	do	182 10 0	In charge of Parties on Newcastle Road.
W. A. Thompson	Sub-Inspector	75 5 0	In charge of Parties on Southern Road leading to Argyle.
Serjeant Mason.....	Storekeeper	18 5 0	In charge of Stores for the use of the Department.
Amount of Gratuities paid to the Several Convict Overseers of Road Parties.....		798 8 9	
Total Expense incurred in the Superintendence of the Department of Roads and Bridges.....		1,621 18 9	

[Enclosure No. 3.]

[*This was a copy of the government order, dated 31st May, 1826; see pages 365 and 366, volume XII.*]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 53, per ship Eliza; acknowledged by Sir George Murray, 27th October, 1828.)

Sir, Government House, 28th March, 1828.

I do Myself the honor to enclose the Copy of a Bill given in by Mr. Foster, the late acting Solicitor General, whom it was found necessary to consult and employ generally with the Attorney General. The Bill, having been duly taxed, has been paid, and I request your authority, Sir, for the Amount being carried to the public Account.

Bill of costs due to W. Foster.

I beg to add that, on receiving the Notification of the Salary attached to the Situation of Solicitor General, I informed Mr. Foster, he would from that date be paid at the rate of £400 a year, being a Moiety of the Salary agreeable to the established regulations.

Salary granted.

I have, &c.,

RA. DARLING.

1828.
28 March.

Bill of costs due to W. Foster.

[Enclosure.]

Bill of Costs.

His Majesty's Government.

To William Foster, Esquire, Solicitor General, New South Wales.

	£	s.	d.
1827. August.—Advising and consulting with the Attorney General as to the right of the Government to reclaim certain Crown Prisoners lent to Mr. Hall	3	3	0
25th.—Attending at the Public Office and going through the requisite proofs to obtain a summons against Mr. Hall to answer the charge of harbouring one John Wood a Crown Prisoner	5	5	0
27th.—Attending at the Police Office in support of Hall's being convicted on the above charge	10	10	0
Septemr. 3d.—Consulting and advising with the Attorney General as to whether certain passages in the Monitor Newspaper of the 27th August last were or were not libellous	3	3	0
Drawing and Engrossing an Information against Mr. Hall on the above mentioned publication	3	3	0
The like for a libel on F. A. Hely, Esquire, in the same paper	3	3	0
The like for a Libel on John Dulhunty, Esqr., Superintendent of Police and the Sydney Bench of Magistrates in the same paper	3	3	0
Sept. 18.—Consulting and advising with the Attorney General as to certain passages in the Australian Newspaper of the 3d Augt. last being libellous	3	3	0
Drawing and Engrossing Information against Dr. Wardell for the same	5	5	0
12th.—Advising and consulting with the Attorney General as to certain passages in the Australian Newspaper of the 30th May last being libellous	3	3	0
Drawing and Engrossing Information against Dr. Wardell for the same	5	5	0
14th.—Attending the Supreme Court to oppose a motion made by Dr. Wardell to restrain the Attorney General from filing an Information for any libel published before he came into Office	5	5	0
22d.—Attending the Supreme Court to argue in support of a Rule on Dr. Wardell to plead immediately to certain Informations filed against him and to shew that the 60 Geo. 3 and 1 Geo. 4 taking away from a defendant the privilege of imparting to a subsequent term applied to N.S.W.	10	10	0
Septr. 29.—Attending the Supreme Court with the Attorney General and Mr. Gellibrand on the Trial of the King v. Wardell	21	0	0
Perusing and considering the Title of the Barque "Lucy Anne" which the Government proposed purchasing of Mr. Dacre	3	3	0
Drawing Assignment of the same from Mr. Dacre to His Majesty, Engrossing same and attesting the Execution	5	15	6
Octr.—Drawing Bond from Mr. — Raine to Mr. Laidley on behalf of Government for the purpose of guaranteeing the fulfilment of a contract respecting Provisions furnished by Mr. J. Raine to Government and engrossing fair Copy	3	13	6
Attending in consultation with the Attorney General on the Question whether an Act of Council would be requisite to effect the measures proposed by a Government Notice of 30th August last, and drawing opinion thereon	5	5	0

Bill of Costs—*continued.*

1828.
28 March.

Bill of costs due to W. Foster.

	£	s.	d.
5th.—Drawing Notice to Mr. Paul not to proceed with the sale of property advertised by him as that of the late Mr. Wentworth the same being Government Property, fair Copy and Service on him	1	1	0
7th.—Mr. Paul having repeated the advertizements, attending for the purpose of forbidding the sale should it take place	0	13	4
11th.—Attending, advising and consulting with the Attorney General respecting the Govcrnt. Notice of the 30th July and writing opinion thereon	5	5	0
"Almorah."			
Attending in consultation with the Attorney General as to the best mode to be adopted for recovery of the Crown property which had been seized on board the Almorah	5	5	0
Octr. 3d.—Advising upon and perusing papers relative to the "Almorah" and writing a long opinion thereon	3	3	0
8th.—The like for a second opinion	5	5	0
It being determined to proceed to the examination of Witnesses under the Commission, Drawing Notice of proceeding and making two fair Copies for the Signature of Mr. Garling and Mr. Carter two of the Commissioners and attg. them	1	1	0
Service of Notice on Dr. Wardell and Mr. Wentworth two other of the Commissioners	0	10	0
Attending Six days on proceedings under the Commission	31	10	0
October Sessions.—Mr. Hall having appealed against the Conviction for having harboured John Wood, Attending at the Sessions to support the Conviction which was affirmed	10	10	0
Novemr. 16.—Attending, Advising and consulting with the Attorney General and writing opinion in answer to the remarks of the Chief Justice as to Prisoners holding Tickets of Leave	10	10	0
Attending the Supreme Court on the Criminal Trials during the Sessions	15	15	0
Decem. 10.—The like as to a vacancy in the Council occasioned by	10	10	0
The like as to a question respecting the Act for printing Newspapers, etc., between Mr. Hall and Mr. Hill	5	5	0
Drawing Information against Dr. Wardell for Libel signed Vox populi	10	10	0
The like for Libel on Judge Pedder and Copy	10	10	0
Drawing Information against Mr. Hall for Libel in the Monitor Magazine and Copy	10	10	0
Decemr. 22.—Attending Court with the Attorney General on the Trial of Dr. Wardell for the publication "Vox populi"	21	0	0
29th.—Attending in Consult with the Attorney General and writing a long opinion on the result of the late Trial	10	10	0
Perusing Papers sent from Police Office, Windsor, and giving opinion thereon	3	3	0
Dulhunty, Esqr., ats. MacLeod, 4th Term, 1827.			
Instructions for Defence	0	13	4
Warrant to Defend	0	2	6
Searching if Declaration filed and paid	0	4	4
Copy thereof	0	5	0
Perusing and considering same	0	6	8
Attending to return same	0	3	4
Precipe for Appearance and Copy	0	5	0
Paid entering Appearance	0	6	8
Instructions for Plea	0	6	8
Drawing and Engrossing same very long and special	10	10	0
Fair Copy to file	1	0	0
Attending to file the same	0	3	4

1828.
28 March.

Bill of costs due to W. Foster.

Bill of Costs—*continued.*

	£	s.	d.
Searching if Issue entered and paid	0	4	4
Drawing Bill of Costs and Copy	0	5	0
Term Fee	0	15	0
Drawing and Engrossing Sixty nine Bonds for the various contracts entered into with the Commissariat for the ensuing Year	72	9	0
Drawing this Bill and Copy	1	1	0
Attending the Master for Appointmt. to tax	0	6	8
Attending taxing	0	13	4
	£365	5	6

I certify the above bill to be correct:—Wm. Carter, Master of Chancery.
5 March, 1828.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 54, per ship Eliza; acknowledged by Sir George Murray, 25th May, 1829.)

30 March.

Sir, Government House, 30th March, 1828.

Expenditure on orphan schools.

I do myself the honor to acquaint you in reply to Lord Viscount Goderich's Despatch No. 38, dated the 27th of July last, wishing to be informed in what manner I had proposed the Expences of the Orphan Schools should be paid in the event of the Grant from the Import Duties being discontinued, that it was my intention the Colonial Revenue should be chargeable with the actual Expenditure of those Establishments until such time as the Revenues of the Church lands should become available for that purpose.

The Average Expense of the Orphan Schools for the last five years, as required by Lord Goderich's Despatch, cannot, I am sorry to say, be ascertained in consequence of the imperfect manner in which the Aecounts have been kept; But the Actual Expences of these Establishments for the last Year are stated as follows, "Vizt.":—

Male School	£1,344
Female „	2,770
Total	£4,114

The *Eighth* of the Duties, set apart by Governor Macquarie for the Support of these Schools for the same period, Amounts to £5,784, so that there is an excess of £1,670 above the Expenditure, which it appears to me would more properly remain in the hands of the Colonial Government than be transferred to the Trustees and applied to any general purposes, contrary to what was contemplated by the Grant.

1828.
30 March.

It will however be seen by the 32nd Section of the Charter, Copy of which is enclosed, that the disposal of the Money, arising from the Grant to the Orphan Schools with the lands given in support of the Male Orphans, is Vested in the Corporation. These lands* called the "Male Orphan School Estate," which consist of about 13,000 Acres, have hitherto been an Expense rather than an Aid, as was intended to the Establishment.

Provision in charter to church corporation.

With respect to the contribution from the Revenue, when the first Grant was made by Governor Macquarie, one fourth of the Duties was set apart for the purpose in question. As these Duties subsequently encreased, the portion for these Schools was reduced to one Eighth, as appears by the enclosed Copy of the Orders, which was issued on the occasion, and, as other Funds have now been provided, it appears I think only reasonable that the Colonial Revenue should be wholly relieved from the charge, as soon as these funds become available.

Customs revenue assigned to orphan schools.

With reference to the concluding paragraph of lord Viscount Goderich's Despatch, I beg to observe that, as the Archdeacon has not been here since its receipt, being Absent on his Annual Visitation to Van Diemen's Land, it is not in my power to give any more detailed information than will be found in my Despatch No. 48 of the present Month.

I beg leave however, Sir, to enclose for your information a Statement or Abstract of the Receipts and Expences incurred on account of the Church and School Establishments for the last year, As likewise a Return of the Chaplains and Catechists employed, with the Amount of the Salaries they respectively receive, including the permanent Churches. You will be aware Sir, from the Statement contained in my former Despatch that the Corporation had not yet been put in possession of any land, and that, consequently, no steps such as Lord Goderich appears to have contemplated in the latter part of his Lordship's Despatch could have been taken. I have, &c.,

Accounts and return transmitted.

RA. DARLING.

[Enclosure No. 1.]

[*This was the thirty-second section of the charter; see page 452, volume XI.*]

[Enclosure No. 2.]

[*These were government and general orders dated 31st March, 1810, 21st June, 1817, and 27th February, 1819.*]

[Enclosure No. 3.]

[*These accounts will be found in a volume in series VII.*]

* Note 28.

1828.
30 March.

Return of chaplains and catechists.

[Enclosure No. 4.]

A RETURN of the Chaplains and Catechists in New South Wales, shewing the Churches and Stations at which they perform service.

Name of Chaplain or Catechist.	Annual Stipend. £	s.	d.	Church or Station where Service is performed.
Chaplains.				
The Revd. Samuel Marsden ..	400	0	0	Saint John's Church, Parramatta.
,, Revd. William Cowper ..	300	0	0	Saint Philip's Church, Sydney.
,, Revd. Robert Cartwright	300	0	0	Saint Luke's Church, Liverpool.
,, Revd. Henry Fulton	250	0	0	Castlereagh School House, and a Govern't. Barn at Emu Plains.
,, Revd. Richard Hill	250	0	0	St. James' Church, Sydney.
,, Revd. John Cross	250	0	0	Port Macquarie and Stations up the River "Hastings."
,, Revd. Thomas Reddall ..	250	0	0	St. Peter's Church, Campbell Town and the Cowpastures.
,, Revd. Fredk. Wilkinson .	250	0	0	Newcastle and Wallis Plains.
,, Revd. Thomas Hassal ...	250	0	0	Cabramatt, Cook, Mulgoa and Bong Bong.
,, Revd. M. D. Meares	250	0	0	Wilberforce, Pitt Town and Sackville Reach.
,, Revd. J. E. Keane	250	0	0	Bathurst and Stations adjoining.
,, Revd. C. P. N. Wilton ..	250	0	0	Field of Mars and Castle Hill.
,, Revd. Elijah Smith	250	0	0	Windsor and Richmond.
,, Revd. John Vincent	250	0	0	Not nominated, The Archdeacon being in Van Diemen's Land.
Catechists.				
Mr. John Layton	182	10	0	Appin and Illawarra.
,, James Chandler.....	182	10	0	Two Stations down the "Hawkesbury."
,, Richard Sadleir	182	10	0	Ten Establishments of Land Proprietors at Hunter's River.
,, William Hall	100	0	0	Prospect and Rooty Hill.

CHARLES COWPER,
Clerk of the Corporation.

Sydney, New South Wales, 31st March, 1828.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 55, per ship Eliza.)

Sir, Government House, 30th March, 1828.

Pardon granted to J. O'Halloran.

I have the honor to acquaint you in reference to Your Despatch No. 1, dated the 20th September last, that John O'Halloran, conformably to the communication made to me, has been permitted to return to England by the present opportunity, £40 having been paid for his Passage.

I have further the honor of enclosing herewith a Duplicate of the Pardon which has been granted unconditionally to John O'Halloran, the Original having been delivered to the Individual.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828, 30 March.
(Despatch No. 56, per ship Eliza; acknowledged by under secretary Hay, 9th January, 1829.)

Sir, Government House, 30th March, 1828.

I do myself the honor to forward for your consideration the enclosed Copy of a letter addressed to me by the Officer Commanding the 39th Regiment, pointing out the inconvenience to which Soldiers serving in New South Wales are subjected from the circumstance of this Colony not being included in the Act of Parliament,* which regulates the Postage of Soldiers' Letters; and I beg to recommend, Sir, that the Soldiers in this Command, which includes Van Diemen's Land, may be put on the same footing in this respect as those serving in other Colonies. Postage on soldiers' letters.

I have, &c.,
RA. DARLING.

[Enclosure.]

COLONEL LINDESAY TO GOVERNOR DARLING.

Sir, Sydney, 27th March, 1828.

I do myself the honor of representing to Your Excellency that the Soldiers in this Garrison universally complain of never receiving any Letters from England, which I am inclined to attribute to the Inland Postage not being paid at Home. Disabilities of soldiers *re* postage.

It would appear that New South Wales is not included in the Act of Parliament regulating the Postage, etc., of Soldiers' Letters, and their Friends are either averse to or are not aware of the necessity of paying more than One Penny, the stated Rate of Postage on each Letter to most other British Colonies beyond Seas.

Under existing Post Office Regulations, a Soldier to receive a Letter on arrival at this Colony would be obliged to Pay the same Rate (independently of the Inland Postage paid by his Friends at Home) as any Civilian, Settler, or Mercantile Man in the Colony, which I consider a very great hardship.

I should feel obliged by Your Excellency making the necessary representation to the Post Master General in England to have this disadvantage removed.

I have, &c.,
P. LINDESAY, Col. Comg., 39th Regt.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 57, per ship Eliza.)

Sir, Government House, 30th March, 1828.

I have the honor to report that the severe illness, which Mr. Oxley, the Surveyor General, has labqured under for some time past, has at length obliged me to place Major Mitchell,† the Deputy Surveyor General, in charge of that Department. T. L. Mitchell appointed acting surveyor-general.

* Note 29. † Note 30.

1828. 30 March. It is to be regretted that Major Mitchell had not had more local experience before the conduct of this important Department devolved upon him; but his Zeal, assiduity and professional knowledge afford me every reason to expect that the duties entrusted to him will be conducted, in the absence of Mr. Oxley's Services, in a very satisfactory manner.

I have, &c.,
Ra. Darling.

Right Hon. W. Huskisson to Governor Darling.
(Despatch No. 19, per ship Countess of Harcourt; acknowledged by Governor Darling, 1st February, 1829.)

31 March. Sir, Downing Street, 31 March, 1828.

Despatch *re* revision of salaries. I have been compelled to delay longer than I could have wished replying to your Dispatch of the 8th of April last, the arrangements, which you therein propose to carry into effect in relation to the several Departments of your Government, having required greater consideration than circumstances have enabled me hitherto to give to this subject.

Upon an examination of the Report of the Board, to whom the duty was confided of preparing a Scale of Salaries more suited to the present circumstances of the Colony than that which previously existed, I see no objection to the principle upon which their remuneration is proposed in future to be regulated; although there are a few cases in which I am of opinion that the Salaries have been fixed at an higher rate than are compatible with the resources of the Colony, or indeed than I conceive to be necessary with reference to the duties performed by the persons whose Emoluments are thus to be augmented.

Approval of new scale with modifications. With the modifications, however, which I shall presently point out to you, I have to authorize the adoption of the new scale, provided the means at your disposal will admit of your carrying the same into effect without appropriating the funds to that purpose which the public Interests require to be otherwise employed.

1st. Surveyor General's Department.

Salary and allowances for surveyor-general. The Salary of the Officer at the head of this Department, as at present fixed, must be acknowledged to be inadequate to the very extensive duties and responsibility, which fall upon him; and his emoluments, therefore, may with propriety be augmented from £800, the amount fixed by the late Secretary of State, to £1,000 per annum, retaining occupation of his present residence, and receiving, in lieu of any allowance to which he may be now

entitled on account of his travelling expences, Forage for four Horses, provided he shall find it necessary actually to keep that number for purposes connected with the duties of his office. 1828. 31 March.

The Salary of the Deputy Surveyor General also requires some increase, and I have no objection to the amount being raised to £650 per annum after the person holding that Situation shall have served in it a few years. You will, therefore, direct that the Deputy Surveyor should receive the benefit of an annual increase of his Salary at the rate of £50, commencing from the 1st January last, until it shall reach the maximum above stated. No allowance for forage need be made to this Officer in addition, nor should he be permitted to make any separate charge on account of his travelling expences, as these will be covered by the increased rate of Salary, which he will henceforth receive. Salary of deputy surveyor-general.

In the Salaries of the five Senior Assistants, I do not see the necessity for any immediate augmentation, although I am not unwilling to grant to them each successive year that they may serve an addition to their Emoluments at the rate of £20 per Annum, until their Incomes shall reach the respective amounts recommended by the Board, the Arrangement to be computed from the 1 Janry. last. This Class of Officers will, therefore, remain upon the same footing, in respect to their Salaries, as that on which the recent Instructions of the Secretary of State placed them, until the beginning of the ensuing Year, when their first increase under the above regulation will take place. It may, perhaps, be necessary to grant to each of these Officers a separate allowance for a Horse, and as they probably would not be able to obtain food, unless supplied from the Public Stores, when in the execution of their duties in the interior of the Country at a distance from the located Districts, an exception to the general rule as to rations may also be requisite in favor of Officers of this Department when employed under such circumstances. Salaries and allowances for senior assistants.

The Seven Junior Assistants having reached or nearly so the maximum of Salary which the Board have proposed to assign to them, they will continue upon the scale which has been established; but with respect to the appointments which may hereafter take place, I am disposed to agree with the Board that they should begin upon a Salary of £200, advancing £20 per annum until it shall have reached £300, after which, and until their promotion to the first class, no further advance should be allowed. Salaries for junior assistants;

In this arrangement, I desire that the persons, who were sent out from this Country as Draftsmen in 1827, may be included; and for draftsmen.

1828. 31 March.

although it is my intention that the persons, who may be appointed hereafter to the last mentioned Situations, shall at the first commencement of their Services, be only entitled to receive £150 per annum, to increase £10 annually for the five following years, when, having reached the maximum of £200, all further augmentation will cease, unless the party may be advanced to a higher station in the Department than that to which he was first appointed.

Augmentation of staff and appointments to vacancies.

It is very possible that a small addition to the number of Surveyors and Assistant Surveyors will become necessary a short time hence; but I hope that the Establishment, as now fixed, will be found fully adequate to the present exigencies of the Service. Should this, however, not prove to be the case, I am to desire that the number may not be increased without previous authority from His Majesty's Government, nor that Vacancies may be filled up in the Colony, excepting merely as a temporary expedient, as measures will be taken to send out proper persons to supply such Vacancies, whenever they shall have been reported to have occurred; and of which, therefore, you will take care to give me the earliest intimation, in order that as little time as possible may be lost in making the new Appointments.

2ndly. Medical Department.

Salaries in medical department;

As the arrangements proposed by the Board in regard to this Department are, upon the whole, more economical than those which you have recommended, I am induced to give the preference to their suggestions; but in this, as well as in the cases beforementioned, much must depend upon the means which you may find at your disposal for defraying the additional charge in question.

3rdly. Department of Public Works.

in department of public works;

Your suggestions with regard to the appointment of the Civil Engineer are approved, with the exception of the Sum proposed to be given to the director, which appears to be larger than there is any occasion for, or indeed than would be proper with reference to corresponding situations in other Colonies. I am therefore of opinion that £700 per annum will be sufficient for the remuneration of the Officer, who may be charged with this duty.

4thly. Department of Roads and Bridges.

and of roads and bridges.

The Surveyor, if a Civilian, will, I think, be adequately paid if he receives a Salary at the rate of £500 per annum. I am also of opinion that Salaries at the rate of £150 per annum will be as much as need be given to his Assistants; and I request that the number of the latter may not exceed that which are at

present employed, without your previously receiving authority to increase it. It seems, however, desirable in an economical as well as other points of view, that the persons in charge of this Department should be Military Men, and I, therefore, hope that you will be able to continue in such employment the Officers of the Royal Staff Corps, without taking them from other duties of greater importance. The allowances which you propose to grant to these Officers, whilst intrusted with the Superintendence of the several Road Parties, do not appear unreasonable under the circumstances which you have stated with reference to the privations and expense to which Service in the Interior exposes them. 1828. 31 March.

5thly. Mineral Surveyor.

The Salary, proposed by the Board to be given to the Mineral Surveyor, has certainly been fixed at too high a rate, as £500 per annum without any other allowance appears to me a very ample remuneration for any services likely to be rendered by that person; and, as the work which it was in the contemplation of the Colonial Government to undertake for the Conveyance of Water into Sydney, if carried on by means of private Individuals, as was recommended in my Dispatch of the 30th January last, will tend to diminish very materially the extent and importance of the assistance (in this particular at least) which he will have to render to the Government, I am not without the hope that you may be able to retain Mr. Busby's Services upon more advantageous terms than those comprehended in the present agreement. I beg, however, to be understood as having approved of the engagement into which you have entered with Mr. Busby, if no better arrangement can be made with him upon the grounds above mentioned. But I am disposed to think that some more efficient Office may be found for Mr. Busby, as I can hardly persuade myself that there can exist a necessity for the continuance of a distinct Establishment for the duties annexed to his present Situation, which might be merged in some other. Salary of mineral surveyor.

The appointment of an Assistant to the Mineral Surveyor must, at all events, be discontinued.

6thly. Convict Establishment.

The Salaries proposed to be assigned to the principal Superintendant of Convicts, and his Assistants, as well as to the subordinate Officers belonging to this Department, appear to be unobjectionable. Salaries in convict establishment;

7thly. Dock Yard.

I have likewise to approve to the establishment appropriated to this Service, and of the scale of remuneration, proposed to be granted to the persons composing the same. and in dock yard.

1828. 31 March.

8thly. Superintendants of Agriculture.

Salaries of superintendents of agriculture;

I have not interfered with the amount of the remuneration, which it is proposed by the Board and yourself to assign to the different Superintendants of the Agrieultural Establishments belonging to the Government; and I have felt it the less necessary to do so, as I am in hopes that the number of those Establishments will, in consequenee of the sentiments which have already been conveyed to you by His Majesty's Government upon that subject, be gradually diminished, until the most expensive of them at least, if not the whole, shall be abandoned.

9thly. Sheriff's Department.

and of sheriff's department.

I observe nothing to which I need object in the arrangement proposed with respect to this Establishment including the several Jailors. I should be glad, however, to be informed of the circumstanees which have given rise to the appointment of an under Sheriff, and whether this Office is not one which can be dispensed with without throwing upon the Principal heavier duties than he is capable of giving his personal attention to.

10thly. Hulk Establishment.

Proposed abolition of hulk establishment.

With respect to this Establishment, I very much question the propriety of retaining it excepting so long as aecommodation eannot be afforded in some other way to the Prisoners, who are now confined there; as I am not only of opinion that it is a more unhealthy mode of securing them than if they were to be confined on shore, but is also attended with greater expense. In the first instanee, the charge of enlarging the Jails to admit of the reception of the Prisoners, for whose disposal it would thus become neeessary to provide, would, no doubt, be attended with ineonvenienee at the present moment; but I am convinced that such a measure would be the most economical in the end, and I am, therefore, desirous you should turn your attention to this subject as soon as you shall be enabled to spare, from more pressing services, the funds whieh will be necessary to be expended with a view to that objeet.

11thly. Coroners.

Fees for coroners.

The proposal of the Board, with respect to the remuneration of the persons employed as Coroners, seems to be preferable to the former arrangement, and I have, therefore, to approve of the adoption of their suggestions upon that subjeet.

12th. Colonial Store Department.

Store department.

The arrangements with respect to the Store Department appear equally judicious, as well as those connected with the

1828. 31 March.

Botanic garden.

Botanic garden, it being of course understood that no charges are to be made on account of the latter Department for Seeds, etc., when sent to this Country by the Superintendant for the use of the Public Establishment.

Abolition of superintendent of slaughter-houses.

All the other suggestions of the Board are approved. The Office, however, of Superintendant to the Government Slaughter Houses will, I should hope, be discontinued, as being no longer required when the Government Herds shall have been disposed of.

General instructions *re* salaries.

In Lord Goderich's Dispatch of the 31st of July last, his Lordship endeavoured to bring under one view the resources, which were applicable to the payment of the charge of the Several Establishments of the Colony, and to shew, at the same time, the amount of such disbursements; but, as the materials, from which those Estimates were formed although the best which the records of this Department at that time afforded, were very imperfect, His Majesty's Government were in some measure prepared for the necessity, which has now arisen for a few alterations. I trust, however, notwithstanding the augmentations of Expense resulting from the measures which form the subject of this Dispatch, that the progressive increase in the Revenues of the Colony will be such as to enable you, in a short time, to meet the increased charge upon them; for you will distinctly understand that you are not at liberty to direct any Bills to be drawn upon His Majesty's Treasury on account of any Increase of Salary, which may be sanctioned by this Dispatch, to a greater amount than that which their Lordships were given to understand would be necessary, when the above mentioned communication from Lord Goderich was addressed to you.

I have, &c.,
W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 58, per ship Eliza; acknowledged by Sir George Murray, 15th November, 1828.)

Sir, Government House, 31st March, 1828.

Supplies shipped to settlements in north Australia.

I do myself the honor to acquaint you in reference to my Despatch No. 23, dated the 25th of last Month, that the Government Brig Governor Philip and the Ship Philip Dundas, private Trader, sailed in Company from this on the 16th inst., with the necessary supplies for the Settlements of Fort Wellington and Melville Island, according to the intimation in my Despatch above referred to.

1828. 31 March.

It is expected, as the Wind has been favorable ever since these Vessels Sailed, that they will make their Passage in the course of four Weeks.

Freight of ship *Philip Dundas.*

I had the honor of stating, Sir, in my former Despatch the reason of my availing myself of the assistance of the Philip Dundas on this occasion; and I have now to request that the Expense of £200 may be authorised, which has been incurred by the employment of that Vessel.

Supplies purchased.

I have further to state that the purchase of such necessary Supplies as were not in store amounted to £413, which, in the emergency of the Moment, I directed to be provided, and I request, Sir, you will be pleased to sanction the Amount being brought to account.

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 59, per ship Eliza; acknowledged by Sir George Murray, 14th November, 1828.)

Sir, Government House, 31st March, 1828.

Correspondence with J. Dowling *re* precedency as judge in supreme court.

I do myself the honor to transmit for your information the accompanying correspondence, which has passed between Mr. Justice Dowling and myself on the subject of Lord Viscount Goderich's Despatch No. 45, dated the 4th of August last, signifying that he was to take rank in the Supreme Court next after the Chief Justice.

Immediately on the receipt of that Despatch, I communicated the Instructions it contained to the Chief Justice as the head of the Supreme Court; but it appears no communication was made either to Mr. Dowling or Mr. Stephen on the subject. The latter Gentleman therefore took precedence in Court, being the Senior Assistant Judge, and it was not until some time afterwards that I heard of the circumstance, and that Mr. Dowling, not having been apprised of the intentions of His Majesty's Government, had yielded as matter of course.

I then communicated personally with Mr. Dowling on the subject and informed him, perceiving that he was disposed to give way to Mr. Justice Stephen, that, under the Instructions which the Secretary of State had addressed to me (a Copy of which had been communicated to him), it was not in my power to consent, as far as the Government was concerned, to his waiving his right in this respect.

I repeated this subsequently in writing as you will perceive by Enclosure No. 2, pointing out to Mr. Dowling that it did not

appear to me he could consistently decline the Situation which His Majesty's Government had thought it fit he should fill. He then consulted the Chief Justice, a Copy of whose Letter is herewith transmitted Enclosure No. 3, and he has in consequence, as will be seen by the same Enclosure, declined availing himself of the Rank intended for him until further Instructions shall be received from Home. I have therefore to request I may be honored with Your Orders for my guidance in this respect.

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Correspondence with J. Dowling *re* precedency as judge in supreme court.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MR. JUSTICE DOWLING TO GOVERNOR DARLING.

Sydney, 22nd March, 1828.

Sir,

I have to acknowledge the honor of receiving Your Excellency's Favour of yesterday, together with the Copy enclosed therein, of a Despatch addressed to Your Excellency by The Right Honble. Lord Goderich, Secretary of State for the Colonies, signifying that His Majesty had been graciously pleased to appoint me to the Situation of Judge, and "to take rank in the Supreme Court next to the Chief Justice."

Despatch *re* precedency of J. Dowling.

At an interview with which I was honoured by Your Excellency on the 17th instant at Government House, Your Excellency condescended to impart the like communication to me from the Original Despatch.

As I have not yet Publicly assumed in the Court House the Rank, thus assigned to me by the Right Honble. The Secretary of State for the Colonies, I think it my duty to inform Your Excellency of the reasons why I have thus abstained from fulfilling the design, so unequivocally expressed by His Majesty's Minister upon this subject, in order that I may not be supposed hereafter to have contravened the wishes of the Noble Secretary, or to have yielded up any advantage derivable to myself from them.

Reasons for delay in assuming rank on bench of supreme court.

After leaving the Council Chamber on the 17th instant, I found His Honor Mr. Justice Stephen much discomposed by the notification conveyed to him by Your Excellency that I was to take Precedence of him in the Supreme Court. In the Evening of the same day I received from His Honor a communication in Writing couched in courteous terms, which, being however superscribed "Private," I do not feel myself at liberty to impart in detail. Suffice it to observe that it contained a remonstrance expressed in a very friendly Tone against the principle of placing a Junior, both in legal standing and by date of Commission, over his Head; and His Honor desired to have my candid opinion

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Reasons for delay in assuming rank on bench of supreme court.

upon the subject; In my reply to His Honor, after stating that the matter was of so delicate and personal a nature that I did not see how I could with any propriety express my sentiments upon it, I wrote as follows:—"Having received no information upon the point myself from the Secretary of State, I cannot but be persuaded that His Majesty's Government, in signifying to His Excellency General Darling its pleasure that I should take Rank on the Bench next to the Chief Justice, may have had some reasons, which I cannot duly appreciate, and which, perhaps, from motives of delicacy to yourself they have not been explicitly intimated. I wish most heartily that I had been spared the task of fulfilling a design so unequivocally expressed. Yielding to my own Private feelings and inclinations, I should promptly decline the Station designed for me; but, as the pleasure of His Majesty's Government has been so distinctly notified upon the subject, I do not feel that I should be justified in frustrating its arrangement. I could have wished that my opinion upon a point of so personal a nature had not been solicited."

I am, &c.

On the Morning of the 18th instant, when in the Judge's Room at the Court House, His Honor Mr. Justice Stephen informed me that, as he collected from my Letter that I purposed taking my Seat on the Bench, conformably to what I supposed to be my right next in Rank to the Chief Justice, he had come to the determination of speaking Publicly from the Bench, and expressing his feelings and sentiments upon the subject in open Court. I took the liberty of suggesting to His Honor the indiscretion, not to say the impropriety, of making the Bench of Justice the scene of such a proceeding. I said that, in my opinion, no good could possibly be derived to any body from such a step; that on the contrary much harm might ensue by thus affording a topic for discussion and observation in the Public Newspapers, to the great disadvantage of the Colony, and to the diminution perhaps of that personal dignity, which the Judges for every reason ought to maintain. His Honor did not acquiesce in my view of the matter, and said that, as he was not conscious of having deserved the mark of degradation thus attempted to be put upon him, that, as he had received no intimation from Home upon the subject, and that as his own Commission in express terms designated him as the *second* Judge, he could not, in justice to his own character, quietly yield his Rank to me without Publicly expressing his feelings from the Bench. Being much embarrassed by this intimation, and seeing that His Honor was deeply affected by his Situation, I told him that, rather than such an injudicious course should

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Reasons for delay in assuming rank on bench of supreme court.

be adopted, I would from motives of Private respect and personal consideration for his feelings keep, for the present, the Junior Seat in Court, which on arriving in the Colony I had in ignorance of my Rank taken; provided that, if he entertained any doubt of the authority on which I was disposed to act, he should promptly write Home, and have the matter cleared up in a more satisfactory manner to his mind. His Honor treated my concession as an act of personal courtesy to himself, and said he certainly should endeavour to ascertain from the Colonial Department in England the grounds on which this proceeding, as respected his Interests and Feelings, had been adopted.

Without professing to detail to Your Excellency all the conversation which passed, or to repeat the exact words used by either Party on the occasion, I think I have in substance stated correctly the reasons why I have forborne Publicly to act in Court on the information with which I was honoured by Your Excellency.

In consequence of my having taken this course (which I really did from an honest desire of avoiding so disagreeable a dilemma as that proposed in the Public Discussion on the Bench of a matter of Judicial precedence), I addressed a Letter to the Chief Justice, a Copy of which I have the honor herewith to transmit to Your Excellency. I should add that, on the same day, I forwarded a Copy of the same Letter to His Honor Mr. Justice Stephen.

I persuade myself that Your Excellency will duly estimate the motives under which I have acted in this delicate matter, and I cherish a hope, that Your Excellency will be of opinion that, in endeavouring to assuage the excitement of personal feelings, I have not compromised the high authority of His Majesty's Secretary of State, or yielded up any point of substance, which it would have been imperative on me to maintain.

Since writing the above, Mr. Justice Stephen has sent me the Copy of a Letter which he has sent to the Chief Justice, desiring the opinion of His Honor upon the question of my right of precedency, under the circumstances in which I am placed. In that Letter it is assumed, erroneously, Adverting to the conversation I had had with Mr. Justice Stephen on the Morning of the 18th instant, and to my Letter to the Chief Justice of the 19th instant, that I have politely offered to "waive the question of *Right*, until the Secretary of State's further Instructions shall have been received." I now mention this circumstance for the purpose of distinctly apprising Your Excellency that, although in consideration of Mr. Justice Stephen's personal feelings I

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have waived the ceremony of sitting on a particular Chair in Court, I am by no means to be understood as giving up any substantial Right, conferred upon me by His Majesty's Instructions conveyed through My Lord Goderich, to which I feel I am bound to pay implicit respect, if pressed upon my observance by Your Excellency.

Trusting that the subject of this Letter will excuse so long a trespass on Your Excellency's attention, allow me to subscribe myself, With perfect respect,

Your Excellency's, &c.,
JAMES DOWLING.

[Sub-enclosure.]

MR. JUSTICE DOWLING TO CHIEF JUSTICE FORBES.

My dear Sir, Sydney, 19th March, 1828.

Explanation tendered to F. Forbes.

I think it right to make you acquainted with the grounds on which I have not acted in Court, upon the intimation conveyed to me by His Excellency Governor Darling, that "Mr. Justice Dowling is to take Rank in the Supreme Court, next after His Honor The Chief Justice," according to Instructions received from Home. I am wholly unacquainted with the reasons influencing The Secretary of State for making such an arrangement, and therefore I cannot pretend to estimate its merits, even if I were at liberty to do so.

Without venturing to determine the propriety of my acting upon such an intimation in a *professional* point of view, my own feelings have restrained me (in the very embarrassing Situation in which I have been thus placed) from giving pain to Mr. Justice Stephen by the Public Assumption of that Station in Court, which I am bound to presume the Instructions from Home would authorise me in taking. Motives of personal respect and consideration for the feelings of Mr. Justice Stephen have induced me to spare him the mortification of acting Publicly upon this notification, especially as he has informed me of his intention of endeavouring to ascertain from the Colonial Office in England the grounds on which this proceeding, as it respects his Interests and feelings, has been adopted. For these reasons (and without meaning thereby to contravene the wishes of the Secretary of State, or yield up any advantage derivable to myself from them), Mr. Justice Stephen, at my suggestion, retains his Seat on the Bench, until the pleasure of the Secretary of State shall be farther ascertained. I am, &c.,

JAMES DOWLING.

[Enclosure No. 2.]

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GOVERNOR DARLING TO MR. JUSTICE DOWLING.

Sir, Government House, 24th March, 1828.

I have been honoured with the receipt of your Letter of the 22 Instant, on the subject of the communication received from The Right Honble. the Secretary of State, with respect to the Station you have been appointed by His Majesty to hold in the Supreme Court of this Colony. Letter acknowledged.

With every desire, Sir, to do justice to the feeling by which you have been actuated in yielding Precedence in Court to Mr. Justice Stephen, and with no less sincere a wish to spare that Gentleman any mortification, which he might experience from a contrary course on your part, it is my Duty to observe, it is a case in which I do not conceive that any thing is left to the discretion of any Individual, or that Your Honor could consistently, with what you owe to His Majesty, waive a Right, which His Majesty has been pleased to confer upon you. Necessity for fulfilling instructions.

Having notified to His Honor The Chief Justice, as the immediate Head of the Supreme Court, some time previous to your arrival, the Station, which it was His Majesty's Pleasure you should fill in that Court, I naturally concluded the matter would have been arranged before you took your Seat; and it is to be regretted it had not been previously explained, as Mr. Justice Stephen might have felt less reluctance in giving way in the first instance than he does at present. He must however see the predicament in which you would be placed by declining to accept from a feeling of delicacy towards him the Situation intended for you; and I persuade myself he will not on reflection agitate the question any further.

Having expressed my sentiments on the matter generally, I am not aware, under the circumstances of the Sitting of the Supreme Court being nearly expired, that there would be any objection to your continuing to take your Seats as hitherto, until the close of the present Term. On the re-opening of the Court at the ensuing Sessions, you could assume the Chair intended for you. The interval occasioned by the recess would render the change less obvious; and so far you would pay all the attention in your power to the feelings of Mr. Justice Stephen, without appearing to doubt His Majesty's intentions which would be the effect of waiting the result of a reference to the Secretary of State, and which, the unequivocal nature of the Instructions I have received and have had the honor of communicating to you, must render totally unnecessary. Compromise proposed.

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You will of course understand that the opinion, I have now given, does not contemplate any Legal or formal objection to the arrangements directed by His Majesty's Government, and I can therefore have no objection, should you deem it necessary, to your communicating this Letter to His Honor The Chief Justice and Mr. Justice Stephen. I have, &c.,

RA. DARLING.

[Enclosure No. 3.]

MR. JUSTICE DOWLING TO GOVERNOR DARLING.

Sir, Sydney, 27th March, 1828.

Letter acknowledged.

I take the earliest opportunity, that circumstances have permitted, of acknowledging the receipt of the Letter, with which I was honored by Your Excellency on the 24th Instant upon the subject of assuming the Rank assigned to me in the Supreme Court by My Lord Goderich Despatch to Your Excellency of the 4th August last.

Advice solicited from F. Forbes.

Having availed myself of the permission granted in the concluding Paragraph of Your Excellency's Letter of communicating its contents to the Chief Justice, His Honor has had an opportunity of perusing it at length. In a note addressed to him on the occasion by myself, I begged His Honor would have the goodness to put upon Paper some tangible ground of legal or technical objection to the arrangement directed by His Majesty's Government, sufficient to authorise me in respectfully submitting to Your Excellency the inexpediency in pressing me to a strict observance of the Noble Secretary's Instructions in this matter.

I was favoured this Morning with His Honor's sentiments upon the subject, as expressed in the enclosed Letter, which I have the honor to transmit for Your Excellency's perusal and consideration.

Proposal to hold instructions in abeyance.

After attentively weighing the import of His Honor's Letter, I am bound to say that, in my humble Judgment, it is sufficiently cogent to authorise me in respectfully suggesting for Your Excellency's consideration whether, upon the whole, it may not be the most expedient course to let the question remain in abeyance, until it has been submitted to His Majesty's Government in the light in which it is now presented by His Honor The Chief Justice. If it became me to offer any personal opinion upon the propriety of this postponement, I certainly should be influenced in my Judgment by the prominent consideration of the vital importance of avoiding all cause of disagreement in the Judgment Seat on a point of too delicate a nature, not to produce uneasiness, particularly under the circumstances in which it

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has been presented, without previous preparation in a quarter the most likely to be affected by the arrangement.

I hope Your Excelleney will forgive me the liberty of urging this unsolicited suggestion; and I should not have presumed to make it, did I not feel that I ought to sacrifice all personal considerations, if in my honest judgment I thought His Majesty's Service in these remote Regions might sustain a prejudice by the strict observance of the form, without any compromise of the substance of the Despatch, with the perusal of which I have been honoured.

With the most perfect respect,

I have, &c.,
JAMES DOWLING.

P.S.—May I beg the favor of Your Excelleney to return me the Chief Justice's Letter at your perfect Leisure.

[Sub-enclosure.]

CHIEF JUSTICE FORBES TO MR. JUSTICE DOWLING.

My Dear Sir, Sydney, 26th Mareh, 1828.

Opinion of F. Forbes *re* precedence of judges in supreme court.

In replying to your Note of this day's date, I need not inform you that I am induced to offer any opinion upon the merits of the question at issue between Mr. Justice Stephen and yourself with the greatest reluctance; and only under the strong sense of the paramount importance of preventing that Public injury, which must be sustained by the want of unanimity and good feeling among the Judges of the Supreme Court. The question is this, whether you or Mr. Justice Stephen is entitled to take precedence in the Court, you, claiming it, by virtue of a Letter from the Secretary of State communicating His Majesty's pleasure to The Governor, and Mr. Justice Stephen resting upon his doubt as to the true intention of His Majesty and the priority of the date of his Commission from The King.

By the usage of England, the Puisne Judges at Westminster take precedence according to their seniority. This usage is part of the Law of the Land; and the precedence of the Judges is as much a matter of Right, as any other incident to their Offices. I will refer to *Comyn's Digest (Title Justices, D.)* for the principle; your own experience will supply instances of the practice at Westminster.

By the New South Wales Act (4th Geo. 4, Chap. 96), The King is empowered to appoint three Judges in the Supreme Court to consist of One Chief Justice, and two additional Judges. There is no Provision made as to the Rank and precedenee of the Judges; and therefore they would take their Seats according

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to their Seniority, conformably to the Law and practice in England. The Charter, under which I was appointed Chief Justice of this Colony, assigns me the same Rank as belongs to the Chief Justice of the Court of King's Bench, and, by analogy, yourself and Mr. Justice Stephen would take Rank according to the date of your respective Commissions in like manner as the Puisne Judges of the Court of King's Bench. Upon this short view of the mere Law of the case, two questions are raised: Whether His Majesty may, by Virtue of his Prerogative, give Rank and precedence to a Junior Judge above a Senior, and whether a Despatch from the Secretary of State to the Governor may be considered as a sufficient form of exercising such Prerogative? I propose these questions, without offering any opinion upon them; the bare fact of their being raised is sufficient to shew that the case itself is one which cannot properly be decided without reference to the Secretary of State.

I do not understand Mr. Justice Stephen to rest his case directly upon any formal objection to the manner in which His Majesty's Pleasure may have been conveyed. His Honor puts a construction upon the Secretary of State's Letter different from that of the Governor; in his own Language, "he cannot suppose that His Majesty could have been advised to retain him on the Bench, and at the same time expose him to the pain and mortification of being postponed in Rank to a Junior Judge"; and therefore, he thinks there has been some misapprehension of His Majesty's intentions. This construction however of the Secretary of State's Letter resolves the question into one of mere legal and formal Right, and one which I do not clearly see how it can be determined in this Colony.

I entertain the highest respect for the recommendation of His Excellency the Governor, but I think it has been made under a misapprehension of the feelings and motives of Mr. Justice Stephen. I am sure His Honor would feel no hesitation in resigning the right hand of the Bench to you at any time, without the least regard to any idle speculation of the Public in witnessing the change, and with that dignified submission, which, as a Judge, he should inculcate by his example, if it could be made clear to him that such was His Majesty's pleasure. But unwilling as he is to believe that it was his Majesty's intention to pain or to mortify him, and associated as this idea has unfortunately been with the fact of his being required to give place to you, he has taken a ground that does not depend upon time; and which must be as strong in principle at the close of the

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ensuing Vacation as it was before you took your Seat in Court. Under these impressions, I fear that the arrangement proposed by the Governor will not accomplish the objects for which it has been suggested, and that a reference to the Secretary of State will be the only alternative.

I must again guard myself from being understood to recommend any particular course. I give my opinion upon the facts as they have been stated to me by Mr. Justice Stephen and yourself, candidly and with no other wish but to preserve that harmony which has hitherto subsisted in the Supreme Court. It is however a satisfaction to me to believe that, should your decision be formed upon my opinion, you will not lose any benefit by waiting the result of a reference to England. The Chief Seat, in the event of its becoming vacant, may be filled up by the Governor's appointing to it any Person he may think fit and proper, without reference to the Judges or the seniority of their Commissions. I beg to remain, &c.,

FRANCIS FORBES.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 60, per ship Eliza; acknowledged by Sir George Murray, 25th May, 1829.)

Sir, Government House, 31st March, 1828.

Questions propounded by church corporation.

I do myself the honor to submit for your consideration and decision the accompanying Copy of a Letter, which has been received from the Corporation of the Church and School Lands, requesting that the questions therein proposed might be referred to the Law Officers and submitted for the opinion of the Judges of the Supreme Court.

I desired it might be signified to the Corporation that it did not appear necessary to submit these matters for any legal decision, as I was already in Communication with the Secretary of State on some of the points referred to, and that I should request Instructions by the first opportunity on the whole of the questions under consideration.

Lands granted to corporation.

1st. The first question is whether Lands* heretofore granted for the support of the Orphan Schools, comprising a tract of about 13,000 Acres and the Glebe Lands, are to be considered as a part of the Seventh of the Territory to be granted for the use of the Church and School Establishments. I have already adverted to the Grant to the Orphan Schools in one of my recent Despatches, and, as the object is the same for which lands are to

* Note 28.

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be granted to the Church, I should presume it would be fair to consider it as forming a part of those lands. The 32 Section of the Charter directs that the land now alluded to shall be placed under the care and Superintendence of the Corporation. The 33d Section relates to the disposal of the Glebes.

Colonial revenue for use of church corporation.

2d. The Second Question relates to the proportion of the Colonial Revenue, which the Corporation is entitled to receive for the purpose pointed out in the first Question?

My Despatch No. 54, dated the 30th inst., contains such information as I presume, Sir, will enable you to determine this point without difficulty.

Payment of salary of J. Busby.

3d. The third question is whether the Corporation are to pay Mr. James Busby for his Services while charged with the Management of the Male Orphan School Estate, and how far the Corporation is liable to discharge any claim for Wages, etc., in a Matter *in which they had no beneficial Interest.* The case is simply this: Mr. Busby was appointed by the Governor to take charge of that Establishment long before the existence of the Corporation, and the Establishment, to which the Estate was granted, received the benefit of his exertions, which I suppose to amount to the same as the Corporation having "a beneficial Interest" in his employment.

From the tenor of the last question in particular, the whole of them having been framed by the Chief Justice, there could be little doubt of the result if referred for decision as proposed, in which I appear to be borne out by the fact that the Corporation have since entered into a Resolution at the instance of the Chief Justice, that the *"Glebe Lands"* alluded to in the first Question do not form a part of the Seventh of the Territory to be granted to the Church.

Problem of glebe lands.

The point is certainly of little importance; but, as the Clergy are to be paid out of the Funds arising from the Church Lands, and the Glebes have been Sold, the Incumbents receiving £100 a year each in lieu, I do not see why they should not be considered as a part of the lands intended for the Maintenance of the Clergy, to which purpose they have in fact been actually applied.

In stating my sentiments, I do not mean to offer an opinion whether the lands in question should or should not form a part of those intended for the Church, as it will be determined by Persons who are more competent to decide it, and, at best, it is a matter of but little importance. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

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REVD. C. COWPER TO COLONIAL SECRETARY MACLEAY.

Sir, Corporation Office, 20th March, 1828.

Questions submitted for legal opinion by church corporation.

The Trustees of the Clergy and School Lands, having caused the enclosed case to be prepared, beg respectfully to request that the same may be referred to the Law Officers; and, if His Excellency approve, a case mutually stated and submitted for the opinion of The Honble. the Judges of the Supreme Court.

The following are the questions upon which the Trustees are solicitous to obtain a Decision:—

First.—Whether the Lands intended to be Vested in the Corporation by His Majesty's Letters Patent, consisting of the Ancient Orphan Grants and the Glebe Lands, are to form part of the Seventh of the Colony, which the Governor is directed by the King's Instructions to grant to the Corporation? or whether those Lands, being already appropriated and occupied, are to be held by the Corporation in addition to the Lands to be granted under the King's Instructions.

Secondly.—What proportion or parts of the Colonial Revenue the Corporation is entitled to receive.

Thirdly.—Whether the Corporation are to Pay any and what part of the Claim recovered by Mr. Busby, under the recited Act of the Governor in Council; and how far the Corporation is liable to discharge any Claim for Wages or for other matters, in which they have no beneficial Interest?

I have, &c.,
CHARLES COWPER,
Clerk of the Corporation.

[Sub-enclosure.]

STATEMENT.

Corporation created by letters patent.

By Letters Patent, Dated the 9th of March, 1826, His Majesty created a Corporation by the Name of the Trustees of Clergy and School Lands in the Colony of New South Wales.

Orphan school lands and revenues vested in corporation.

By the thirty Second Clause of which all the Lands and Tenements within the Colony, heretofore appropriated and set apart by the former Governors of the Colony, or any of them, for the Maintenance and Education of Male and Female Orphans, and all such parts of His Majesty's Revenues arising within the Colony, as had by any such Governor been appropriated and set apart for the Education of Youth therein, are thereby vested in and placed under the Management, Care and Superintendence

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of the Corporation, to be by them applied and disposed of in aid of the Funds thereby appropriated towards the Education of Youth in the Colony in the Principles of the Established Church.

Glebe lands vested in corporation.

And by the thirty third Clause, it is declared that all the Lands, theretofore set apart within the said Colony for the support of the Clergy of the Established Church, and known by the Name of the Glebe Lands, or by whatever other Name the same may be known, should immediately after the Death, Resignation, removal or other Avoidance of the Chaplain or Clergyman, now in the occupation and enjoyment thereof, respectively pass to and become vested in the said Corporation upon, and under, and subject to the Trusts, and to and for the intents and purposes, thereinbefore declared, respecting the other Estates of the said Corporation.

Lands granted to corporation;

By The King's Instructions, The Governor is directed to grant to the Corporation, under the Public Seal of New South Wales, one Seventh part of the Lands within the Territory of New South Wales, to be held by the Corporation and their Successors in Fee Simple.

and to committee of female orphan institution.

By a Grant* dated the 15 August, 1803, Philip Gidley King, Esquire, The Governor of the Colony, granted to Mrs. King, Mrs. Paterson, the Reverend Samuel Marsden, Thomas Jamison, John Harris, and John Palmer, Esqrs., the then Committee for conducting the Female Orphan Institution, and in case of their Death or Absence, to the Persons therein mentioned, To hold for Ever (12,300) Twelve thousand, three Hundred Acres of Land in the District of Cabramatta; and by a Grant, Dated the 1st of May, 1804, the said Governor granted to the said Committee 2 Acres and 17 Rods of Land in the Town of Sydney; and by a Grant, Dated 10th August, 1806, the said Governor granted to the said Committee 280 Acres of Land part of Grose Farm.

Surrender of Grose farm by and new grants to committee of female orphan institution.

By a Deed, dated 27th of May, 1823, Sir Thomas Brisbane, Governor of the Colony, in consideration of a surrender made by Messrs. Marsden, Palmer and Harris, the surviving Trustees for conducting the aforesaid Institution, to His Majesty, His Heirs and Successors, of (280) Two Hundred and eighty acres of Land, part of Grose Farm, and in order to remove Doubts, which are therein mentioned to be entertained, of the sufficiency of the before mentioned Grants to convey Legal Estates for the benefits of the said Institution, did Grant to the said Samuel Marsden, John Palmer, and John Harris, the said parcel of (12,300) Twelve thousand, three hundred acres of Land; and (2) two Acres and (17) Seventeen Rods of Land; and also (1,000) One thousand Acres of Land in the County of Roxburgh,

* Note 28.

and (600) Six Hundred Acres of Land in the District of Cabramatta, adjoining the said (12,300) Twelve thousand three hundred Acres of Land; and also (60) acres of Land at Parramatta called Arthur's Hill; To hold the same to the said Samuel Marsden, John Palmer and John Harris, and the Survivors and survivor of them, and the Heirs and Assigns of such Survivor for ever, Upon trust, to permit the same to be occupied and enjoyed for the support, maintenance and benefit of the said Female Orphan Institution, and to let, convey, Sell and Dispose of the same, as the Committee for the time being of the Institution should from time to time direct or appoint.

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And various Grants of Glebe Land have been, from time to time, made to the several Chaplains of the Colony, and to their Successors the Chaplains for the time being.

Glebe lands granted to chaplains.

On the Institution of the Female Orphan School in August, 1800, the following Duties were appropriated to its support, Vizt.:—

Duties appropriated to female orphan institution.

> The Proceeds of the Retail Spirit Licenses; The Port Duties; Entries and Clearances of Vessels; The Fees for Permits to remove spirits; A Duty of 1½ per Cent. on Auction Sales; A Duty of 5 per Cent. Advalorum on Articles imported, the produce of Countries Eastward of the Cape; Fines Levied by Courts of Justice and Magistrates; The Governor's Fees on all Grants and the Quit Rents thereon; And certain profits arising by the Sale of Supplies from His Majesty's Stores, as directed by the Right Honble. Lord Hobart.

On the 31st of March, 1810, the Governor established a Public Fund, and ordered the payment of three fourths of all the Duties and Customs Collected to be paid to the Treasurer of that Fund; And that the Duties on the Licenses should be paid into the Police Fund.

Proportion of revenue assigned to institution.

On the 21st of June, 1817, the Governor ordered that one eighth part only of the Colonial Revenue should be assigned to the Female Orphan Institution.

On the 1st of January, 1824, The Governor notified to the Reverend Samuel Marsden, Mr. John Palmer and Mr. John Harris, the surviving Trustees of the Female Orphan Institution, his intention of relieving them from their Duties, and appointed the Colonial Secretary for the time being, Henry Grattan Douglass, Esqr., and the Reverend Thomas Reddall, the Committee.

Appointment of new committee.

In December, 1824, an attempt was made to instruct the Male Orphans in the Cultivation of the Vine, with the view to its

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general Cultivation in the Colony; and an Agreement is understood to have been entered into by Major Goulburn, as the Managing Member of the Committee, with Mr. James Busby to give the Boys the necessary Instruction, and also to superintend the general Farming Establishment of the Institution.

Mr. Busby was to have one third of the gross encrease of the Stock, and of the Net Profits of the Soil.

Act for vesting orphan school estates in church corporation.

By an Act* of the Governor and Council, passed the 2nd of August, 1826, after reciting that the Accounts of the School (Orphan) were settled up to the 31st of December, 1823, It is enacted, amongst other things, that the Reverend Samuel Marsden, John Palmer and John Harris, and all other Trustees and Committee, theretofore Concerned in the Management of the same, should be, and they are thereby Released from all responsibility as such Trustees or Committees; and that all other Committees or Persons, having the care or disposal of the Estates or Funds of the said School since the said 31st of December, should, upon passing their Accounts to the satisfaction of the Trustees of Clergy and School Lands, be in like manner released from all responsibility as aforesaid; and that the Trusts in them, or any of them, or in any Person or Persons vested in respect of the said Estates should be determined. Provided that Claims then legally outstanding against the Trustees or any of them, in respect of the said Trusts, might be made and enforced against the said Corporation, in the same manner as they might have been against the said Trustees, or any of them, if that Act had not been passed.

Dismissal of J. Busby.

The Corporation, finding the Expenses of the Farming Establishment Enormous, and that there was no prospect of return, determined to discharge Mr. Busby and to break up the Establishment, and notice was accordingly given that his Services would not be required after the 31st of March.

Claims made by J. Busby.

Mr. Busby contended that he had a right to the prospective produce of the Farm, and estimated such produce, especially the Wine, at a very high Rate, and, as considerable difficulty occurred in the adjustment of the Sum due to him, it was agreed by the Corporation and Mr. Busby to submit the Claim to the decision of "Arbitrators."

Award of arbitrators on claim.

The Arbitrators reduced Mr. Busby's Claim to a fixed Amount per Annum, and, after various Sums of Money paid to him by Warrants from the Governor in anticipation of the Produce, awarded that there was a Balance Due to him of (£1,033 6s. 8d.) one thousand and thirty three Pounds, Six Shillings and eight Pence Sterling.

* Note 31.

1828.
31 March.

Questions submitted for legal opinion.

Doubts having arisen as to interests and liabilities of the Corporation, under the several Instruments and Acts before noticed, the Trustees are desirous of ascertaining,

First. Whether the Lands, intended to be vested in the Corporation by His Majesty's Letters Patent, consisting of the Ancient Orphan Grants and the Glebe Lands, are to form part of the Seventh of the Colony, which the Governor is directed by the King's Instructions to grant to the Corporation? Or whether those Lands, being already appropriated and occupied, are to be held by the Corporation in addition to the Lands to be granted under the King's Instructions.

Secondly. What proportions or parts of the Colonial Revenue the Corporation is entitled to receive?

Thirdly. Whether the Corporation are to Pay any, and what part of the claim recovered by Mr. Busby under the recited Act of the Governor in Council; and how far the Corporation is liable to discharge any Claim for Wages or other matters, in which they had no Beneficial Interest?

[Enclosures Nos. 2 and 3.]

[*These were the thirty-second and thirty-third clauses of the charter for the clergy and school estates; see page 452, volume XI.*]

GOVERNOR DARLING TO UNDER SECRETARY STANLEY.

(Despatch per ship Eliza.)

Sir, Government House, 31st March, 1828.

Report on Thomas Hart.

I do myself the honor to transmit, in reference to Mr. Hay's letter, dated the 31st of July last, the accompanying Extract from a Memorandum from the Principal Superintendent of Convicts, relative to the case of Thomas Hart.

I have, &c.,
RA. DARLING.

[Enclosure.]

EXTRACT from the Principal Superintendent of Convicts Memorandum, Dated 13th February, 1828.

"THE Principal Superintendent of Convicts has the honor to acquaint the Private Secretary to His Excellency The Governor, in answer to Query No. 1 of his Memorandum of the 28th Ultimo, that the Convict named in the Margin* is at present

* *Marginal note.*—Thomas Hart per Medina.

1828. 31 March. in the Service of one Thomas Millar of Bathurst, with whom he has lived since his arrival in 1824. His Master reports favorably of his Charaeter."

FREDK. A. HELY.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 61, per ship Eliza; acknowledged by Sir George Murray, 2nd November, 1828.)

1 April. Sir, Government House, 1st April, 1828.

Plan and estimate for additions to benevolent asylum. The Return of Captain Dumaresq, the Civil Engineer to Sydney, has enabled me, in reference to my Despatch No. 44, dated the 24th of last Month, to forward by this opportunity a Plan and Estimate of the addition proposed to be made to the Building appropriated as a "Benevolent Asylum."

You will observe, Sir, that, although two Wings are laid down in the Plan, which would be desirable with a view to the Uniformity and appearance of the Building, that one Wing only is intended to be erected at present, it being supposed that this addition will be sufficient for the accommodation of the Number of Persons now Maintained by the Institution. As the Numbers encrease, the other Wing may be added hereafter, which will save for the present the expenditure of about £240.

I request, Sir, that the subject may receive your early Consideration, as the want of the proposed accommodation occasions very serious inconvenience. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Abstract of accounts of benevolent asylum.

ABSTRACT of the Receipts and Disbursements of the Benevolent Asylum of New South Wales during the years 1825, 1826 and 1827.

1825.	Cash from Colonial Revenue	£1,050	0	0
	Subscriptions received	481	0	0
1826.	Cash from Colonial Revenue	1,050	0	0
	Subscriptions received	541	0	0
1827.	Cash from Colonial Revenue	997	0	0
	Subscriptions received	373	0	0
	Balance in hand	42	1	6
	Total Amount	£4,554	1	6
1825.	By Cash paid for Expences	£1,438	10	3
1826.	By Cash paid for do	1,709	13	10
1827.	By Cash paid for do	1,405	17	5
	Total Amount	£4,554	1	6

[Enclosure No. 2.]

1828
1 April.

Return of persons relieved by benevolent asylum.

RETURN of the Average Number of Persons relieved by the Benevolent Asylum during the Years 1825, 1826 and 1827.

		No. of Persons.		No. of Persons.	Total.
1825.	In the Asylum	87	Out of the Asylum	13	100
1826.	do	97	do	17	114
1827.	do	97	do	19	116
	Total	281	Total	49	330

[Enclosure No. 3.]

[The estimates amounted to £482 12s. 0d.; the plan will be found in the volume of charts and plans.]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 62, per ship Eliza; acknowledged by Sir George Murray, 4th November, 1828.)

Sir, Government House, 2d April, 1828. 2 April.

Having heard that Mr. Bannister has been called Home from the Cape of Good Hope and supposing that his retiring from this Colony may possibly become a subject of discussion, I have thought, though perhaps too late, that it may be convenient to advert to his case. Report on S. Bannister.

I understand Mr. Bannister lays much stress upon the circumstance of his Compulsory removal* from Office, the fact being that he had actually sent Home his resignation long before my arrival in the Colony, and communicated to me, on the 15th of September, 1826, a Letter which he had received from Earl Bathurst, informing him that a person had been appointed to succeed him in the Month of April. Complaints made by S. Bannister.

In his Letter of the 15th September, he applied to me to be allowed to return Home; and I informed him, not being aware how the duties of Attorney General could be provided for, that I did not understand it to be the intention of Earl Bathurst that he should relinquish his Office before the arrival of his Successor. Application to return to England.

A Week after, on the 22d of September, he applied for leave of Absence for three Weeks to go into the Interior, and repeated this Application on the 25th. Some business, which I do not immediately recollect, occurred, which prevented his request being at that Moment complied with. A few days after, on the 3d of October, he made a fresh Application to be permitted to go to Van Dieman's Land, which was granted; and, on the 6th of that Month, he addressed a Letter to me commenting on my Conduct in such a Manner as induced me to think, coupled with his recent repeated applications for Leave, that it would be Applications for leave of absence.

* Note 32.

1828. 2 April.

Resignation of S. Bannister.

better at once to allow him to return Home than detain him under such circumstances. I presume Sir to think that Mr. Bannister, having Voluntarily resigned his office, he cannot justly complain of being removed under the circumstances above stated, and that the Government was not bound to retain him longer than appeared convenient or beneficial to the Service.

I beg, Sir, to refer you, should you think it necessary to go further into the subject, to the despatch which I had the honor to address to Earl Bathurst, dated the 27th October, 1826, Marked "Separate," and I avail myself of this opportunity of enclosing the Copy of a letter, which I have felt it necessary lately to write to Mr. Bannister, in Consequence of his republishing some of the Articles which have appeared in the "Australian" Newspaper reflecting on my Conduct. I have, &c.,

RA. DARLING.

[Enclosure.]

GOVERNOR DARLING TO MR. S. BANNISTER.

Sir, Government House, 25th February, 1828.

Letters acknowledged.

I have received from time to time several Letters, which you have addressed to me, with some Printed Papers which you inform me you have laid before His Majesty's Government. As I am led to suppose, from Your Letter of the 17th October, that you expect a reply, I am induced to state that, as on the occasion to which you appear particularly to allude, I acted on principle in the discharge of my duty as Governor of this Colony, the subsequent conduct of Doctor Wardell towards me, as appears by the Papers which you have thought fit to republish, consistent as it may be with his Character, cannot be considered as furnishing any ground for altering my opinion as to the propriety of my proceeding at the time.

Correction of statements of S. Bannister.

You will excuse me if I do not subscribe to the correctness of the view, which you have taken of your case, speaking, as I think you do, of my having suspended or removed you from office, when I believe you had tendered your resignation to His Majesty some time before my assuming the charge of this Government, and which, I received orders to inform you, His Majesty had been pleased to accept.

Calumnies republished by S. Bannister.

I may be further permitted to express my surprise that, in seeking justice at my hands, you should at the same time furnish proofs of your promoting the Circulation of Calumnies against me by republishing them in Your Papers, originating as they did with a person whom you have invariably represented as a Common Slanderer, unworthy of attention or Credit.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828, 3 April.

(Despatch marked "Separate," per ship Eliza; acknowledged by Sir George Murray, 22nd September, 1828.)

Sir, Sydney, 3rd April, 1828.

Having received private information that Captain Robison* of the Veteran Companies had sent Home Charges against me and that the Chief Justice had assisted him in preparing or revising them, I immediately wrote to those Gentlemen requesting information as to the fact. Charges made by R. Robison against R. Darling.

I do myself the honor, Sir, to transmit for your information a Copy of a Letter written by my directions to Captain Robison and of his answer, as likewise of the reply, occasioned by the equivocal nature of Captain Robison's Letter.

The Charges, of which I presume a Copy has been transmitted to you direct, or through the medium of some friend to be delivered as he might think proper, I know from undoubted Authority were forwarded by the "Orelia" on the 9th last Month, five Copies having been sent Home by that Ship, so that the Subterfuge, used by Captain Robison in admitting that he forwarded Statements to his Friends *last Year,* is rendered evident by a knowledge of this fact, and exposes his conviction of the improper and indefensible nature of his proceedings.

It is not my intention, Sir, to trouble you on the subject of Captain Robison's conduct, further than the Chief Justice is implicated. You will perceive by the accompanying correspondence, which has passed between us, that Mr. Forbes states the report I had heard was "entirely untrue." He admits, however, he had understood "that he (Captain Robison) intended to complain of what he considered as grievances." But he goes on to state, "whether Captain Robison has made any Charges against your Excellency or not, I do not know, nor can I distinctly recollect one specific circumstance, of which I understood him to complain." Implication of F. Forbes in charges.

Whether Mr. Forbes does or does not know that the Charges have actually been forwarded, is not very material. But I am assured, on such Authority as I cannot possibly doubt, tho' I cannot disclose it, that Mr. Forbes was in possession of the Draft of the Charges for some days and did certainly alter and amend them in his own Hand! As to the matter introduced by Mr. Forbes in his second Letter of the 23rd last Month, with respect to Colonel Stewart and Mr. Mackaness, it was merely to divert my attention from the original question, which Mr. Forbes hoped by this means and his denial of any knowledge of the Charges would be forgotten; and that he might thus escape detection.

* Note 33.

1828.
3 April.

Statement to be forwarded to commander-in-chief.

It being my intention to address His Grace the Commander in Chief on the subject of the offence, of which Captain Robison has in a military point of view been guilty, I shall, Sir, only trouble you further by enclosing the Copy of a Statement, which I propose forwarding to his Grace, which will prove that no common pains have been taken to serve Captain Robison.

Necessity for enforcing orders.

The inconsistent and contemptible nature of the Charges might exonerate me from noticing them; but it has become necessary, if only for the sake of example, to shew those possessing the litigious Spirit of Captain Robison, by which his unfortunate Brother* was equally actuated in his proceedings against the Bengal Government, that, whatever countenance or support they may receive from others, they will be made strictly amenable for any deviation from the rules laid down for their observance. Captain Robison was bound both by the Articles of War and the regulations of Government, as established by the orders of Earl Bathurst, to have made his complaint through me.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Captain Sturt to Captain Robison.

Sir, Government House, 23d March, 1828.

Demand for copy of charges if forwarded.

Lieutenant General Darling, commanding the Troops in this Government, having been informed that you have transmitted Charges against him to the Commander in Chief and other public Authorities in England, I am directed by His Excellency to require you to state whether the report he has heard is correct, and, if so, that you immediately forward for His Excellency's Information Copies of the said Charges and of any representation you may have made to any Branch of His Majesty's Government, with respect to his conduct.

I have, &c.,

Charles Sturt, Mily. Secy.

P.S.—You will send your reply to the Superintendent of Police, who has directions to forward it to Sydney.

C.S.

[Enclosure No. 2.]

Captain Robison to Captain Sturt.

Sir, Newcastle, 28th March, 1828.

Statements transmitted to family and friends.

In reply to your letter of the 23rd instant, I have the honor to inform you that I found it necessary last Year to transmit to my Family and Friends certain Statements, relative to

* Note 34.

myself and Company since our Arrival in this Colony, and I am not now prepared to say what nature they may ultimately assume. 1828. 3 April.

I have, &c.,
R. Robison,
Captn., N.S.W. Veteran Companies.

[Enclosure No. 3.]

Captain Sturt to Captain Robison.

Sir, Government House, 31st March, 1828.

I am directed by the Lieutenant General commanding to observe that your letter of the 28th inst. is not an Answer to that which I addressed to you by His Execellency's Orders on the 23rd; and I am further commanded to desire you will state unequivocally, whether you have or have not transmitted any Charges or representation against the Lieut. General at any time since you have been under his command, either directly to any of the Public Authorities in England, or to your friends for the purpose of being communicated to the Secretary of State or the Commander in Chief, and, if so, that you do, without further delay, transmit a Copy of the said Representation or Charges through the Superintendent of Police, who has directions to forward the same to Head Quarters. Demand for specific statement re charges.

I have, &c.,
Charles Sturt, Mil. Secretary.

[Enclosure No. 4.]

Governor Darling to Chief Justice Forbes.

Sir, Government House, 23d March, 1828.

It having been this moment intimated to me that Captain Robison of the Royal Veterans has transmitted Charges against me to His Majesty's Government, and that you assisted in preparing the Charges, I feel it to be due to the high Station you fill in this Government to apprise you without loss of time of this circumstance, as a means of affording you an opportunity of contradicting a Report of so injurious a tendency. Reported complicity of F. Forbes in charges.

I have, &c.,
Ra. Darling.

[Enclosure No. 5.]

Chief Justice Forbes to Governor Darling.

Sir, Sydney, 23d March, 1828.

I feel much obliged to Your Excelleney for the candid manner in which you have informed me of its having been intimated to you that I had assisted Captain Robison of the Royal Report denied by F. Forbes.

1828. 3 April.

Veterans in preparing Charges against you, and, in the same spirit of candor, I beg to assure you, Sir, that the report is entirely untrue.

Previous knowledge of grievances alleged by R. Robison.

From my intimacy with the Family of Mr. Justice Stephen, I understood that Captain Robison felt himself aggrieved by you, as his Commanding Officer, and that he intended to complain of what he considered as grievances; and, as a friend of Mr. Stephen's Family, I suggested to one, whose opinion I knew was influential with the rest of the family, that Captain Robison should be cautious of preferring charges against his Commander. Whether Captain Robison has made any charges against your Excellency or not, I do not know; nor can I distinctly recollect one specific circumstance, of which I understood him to complain. I have never had any communication with him upon the subject; and when he was in Sydney a few days since, I met him by accident in company with the rest of Mr. Stephen's Family and at no other time.

Having I hope satisfied your Excellency of the unfounded nature of the report, I must beg that your Excellency will inform me who it was that communicated it to Your Excellency.

I have, &c.,
FRANCIS FORBES.

[Enclosure No. 6.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, Sunday, 4 o'clock.

Author of report unknown.

I am this moment favoured with your Letter, which is in every respect perfectly satisfactory. Having been informed of the circumstance, as communicated to you, I felt myself bound to put you in possession of it. But I assure you, I not only do not know the Author, but I have made a point, as I usually do on such occasions, of not enquiring. It was mentioned to a Gentleman of my Family, who shall be immediately furnished with the means of correcting his Informant.

I have, &c.,
RA. DARLING.

[Enclosure No. 7.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 23d March, 1828.

Probable origin of report.

I am extremely glad to find that my Answer to your Excellency's Letter of this date has been satisfactory, and I do not wish to press my enquiry as to the Author of the Report. I think it originated in the circumstance of my visiting Mr. Sydney Stephen's house on two successive days, while (as I

afterwards heard) Captain Robison was there. I neither saw him, nor communicated with him; my object was exclusively to adjust a matter, which I feared might lead to some difference of opinion between Mr. Justice Stephen and Mr. Justice Dowling; of the very extraordinary and contradictory tenor of the reports, which I have been exposed to in this Colony, the enclosed Letter will afford you some proof. I simply beg of you to read it, Sir, and return it me when you have done with it; and that you will regard the communication of it as confidential. 1828. 3 April. Reports made about F. Forbes.

I have, &c.,
FRANCIS FORBES.

[Enclosure No. 8.]

MR. J. MACKANESS TO CHIEF JUSTICE FORBES.

Dear Sir, Brisbane Cottage, Sydney, 23d March, 1828.

I cannot leave the Colony without requesting you to inform me whether Lieut. Colonel Stewart was correct when he told me "That you, in Council, had given it as your Opinion that the Act of 4 Geo. 4, C. 64, did not apply to this Colony, and that it is the duty of the Sheriff to attend to the Government." Opinion of F. Forbes *re* sheriff.

He added, "if you Sheriff have any thing to fear, it is through your friend the Chief Justice, who, in my presence, dictated the Letter the Governor sent Home against you." This conversation passed a few weeks before Colonel Stewart went to India, as we were walking over the Race Course from the Barracks to my residence. Alleged dictation of despatch by F. Forbes *re* J. Mackaness.

I have, &c.,
J. MACKANESS.

[Enclosure No. 9.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, 24th March, 1828.

I beg to return herewith the Enclosure which accompanied your second Letter of yesterday. Without entering further into the Question than relates to the Letter written Home respecting Mr. Mackaness, I must say the circumstance is so totally unfounded that I feel it quite impossible to give any credit to the Statement. I should be at a loss to conceive how Colonel Stewart could even have known that I had made any communication to His Majesty's Government respecting Mr. Mackaness. I am not in the habit of communicating the Despatches I write or receive to any one; and I have no reason to think I ever mentioned to Colonel Stewart my having written Home on the subject in question. Denial of alleged statement by W. Stewart.

I have, &c.,
RA. DARLING.

1828.
3 April.

[Enclosure No. 10.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 24th March, 1828.

Liberties taken in name of F. Forbes.

I have had the honor to receive your Excellency's Letter of this morning, returning Mr. Mackaness's communication to me, dated 22d instant. My object, in enclosing that communication to your Excellency, was to shew the very extraordinary freedoms that have been taken with my name. From my own knowledge, I was aware that the Statement, whether made by Colonel Stewart or not, so far as it respected my dictating any letter in your Excellency's presence, was untrue. There is a circumstance, however, mentioned by Mr. Mackaness, which cannot have escaped your Excellency. It is true that I did express in Council the opinion stated in his letter. Your Excellency will recollect that the Executive Council were convened about twelve months ago after Divine Service at Government House, and that you Excellency laid before the Council a Letter of Mr. Mackaness, who was then Sheriff, in which he considered the Statute 4 Geo. 4, C. 64, for regulating gaols, as in force in this Colony, and at the same time an Opinion of the Acting Attorney General, and I think also of Mr. Carter, in which a different view was taken, and that I did express the opinion ascribed to me in Mr. Mackaness's Letter. By what means, he came to the knowledge of this fact, I will not conjecture. It were hard to offer any opinion upon the correctness of a Statement, so plainly affirmed on one side, and so nearly touching the honor of an absent party on the other. But from Mr. Mackaness's marked reserve of manner towards me for some time past, I entertain no doubt that he believes what he states himself to have heard.

Illicit knowledge of statement made in executive council.

I have, &c.,

FRANCIS FORBES.

[Enclosure No. 11.]

STATEMENT of Lieut. General Darling, with reference to the Charges (of the general purport of which only he has been informed) preferred by Captain Robison.

Purport of charges made by R. Robison.

CHARGE 1st. That the Proclamation or Warrant, under which the Veteran Companies were raised, had been broken.

Charge 2nd. Shameful or Tyrannical conduct towards himself and Lieutenant Sweeney.

Charge 3rd. Breach of the Articles of War or Regulations of the Service in signing false Returns, and conniving at the forgery of Colonel Stewart, and ill treatment of him in consequence of having noticed it.

Charge 4th. Tyrannical or Shameful treatment of him on his Marriage.

Charge 5th. His present degraded Situation, in being placed under the Orders of a ci-devant Captain of the Buffs, Superintendant of Police and a Convict Overseer, and not having received any Answer to his Letters. 1828. 3 April.

Observations.

The Letter under which the Veteran Companies were raised, dated Royal Hospital, Chelsea, the 12th September, 1825, states, that they have been formed "for the purpose of being employed as Superintendants and Overseers of Convicts, in addition to their military duty." Having proved totally unfit for the Situations of Superintendants and Overseers, they are in general now employed in doing Garrison duty, the same as all other Veteran Corps. Captain Robison was the *first* person, who reported their mutinous conduct, and two of the Men, who came out in the Ship with him, were selected and tried as an example. Observations on charges by R. Darling.

I do not comprehend what he means by shameful conduct to himself and Lieutenant Sweeney, alluded to in the second Charge, or by a Breach of the Regulations of the Service in the 3rd. It will, however, be easy to judge of the attention, which is due to these allegations, by shewing how the others are borne out. For instance, Conniving at the *Forgery* committed by Colonel Stewart, and the ill Treatment he Captain Robison received for having noticed it. It will be sufficient to state that I never even heard of this alleged Forgery *until the present moment.*

I now understand Captain Robison says that Colonel Stewart wrote the Colonial Secretary's name on the Envelope of a private Letter in order to its immediate conveyance by the Constables on the Road. Colonel Stewart is now in India.

As to the 4th Charge, the injurious tendency of Captain Robison's conduct obliged me to remove him from Sydney, where radicalism and insubordination appeared to be rapidly gaining ground. He was under Orders to proceed with his Company to Newcastle, when he requested Leave of Absence on the grounds of his approaching Marriage, which was immediately granted.

The 5th Charge is absurd and untrue. Captain Robison commands a Detachment of the Military at Newcastle, with which neither the Superintendant of Police or Overseer (who is not a *Convict* as Captain Robison would have it understood, but a free Man and Superintendant of Works) could ever think of interfering, nor would Captain Robison permit it, though his constant object has been to irritate and provoke them. His letters have not been left unanswered, though they did not merit a reply. Captain Robison had twice obtained Leave to return

1828. 3 April.

Observations on charges by R. Darling.

Home as a special indulgence, and twice declined availing himself of it. Even after this, and his conduct was most improper on the last occasion, he applied by Letter more than once, and he was informed his Application on this head would not be attended to.

I understand he complains of his Quarters at Newcastle, which is a House consisting of *Six* Rooms, having been intended for *three* Officers. Captain Robison, being only recently married, has no Child.

I cannot perhaps better shew the unhappy construction of Captain Robison's mind than by pointing out the exertions that have been made to serve him.

In February, 1827, he was appointed to a Situation of Distinction and Emolument, the command of the Bathurst District, to relieve a Lieutenant Colonel, though there was not a Man of his Company detached with him.

When the Bathurst District was discontinued, he was nominated to another Command, that of Norfolk Island, though none of the Men of his Company were there. He declined it, as if insulted by the offer of a Situation which others had been solicitous to obtain, and asked Leave to return Home. It was granted, and he refused to go. The injurious tendency of his proceedings then obliged me to order him to Newcastle, where I hoped being exposed to less excitement than in Sydney, he might be restored to a better State of mind. If it should not appear by what I have now stated, I feel myself called on to add that Captain Robison's continuance in the Service cannot fail to prove in the last degree injurious to it. RA. DARLING.

3d April, 1828.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 63, per ship Eliza; acknowledged by Sir George Murray, 17th December, 1828.)

Sir, Government House, 3d April, 1828.

Report *re* proposed repairs to military barracks.

I do myself the honor to transmit for your information the enclosed Copy of a Report respecting the repair of the Military Barracks,* which I have received from the Civil Engineer and the Officer Superintending the Artificers of the Royal Staff Corps.

These Officers State, and I am satisfied of the fact, that they cannot with any degree of accuracy specify the probable Amount of the Expense. The Building is very extensive, being calculated to contain two Regiments and never having received a thorough repair; and, being composed of green and Unseasoned Materials, it is impossible to say until they uncover the

* Note 35.

defective parts, to what extent the repairs may be found necessary. But you may be assured, Sir, that nothing more shall be done than is absolutely required for the preservation of the Building and the necessary Comfort of the Troops. 1828. 3 April.

In order to insure these objects, I have been under the necessity of commencing the Work without waiting for Your Authority. But the arrangement, I have made, will prevent the Expense being considerable. The Men of the Staff Corps having been found unfit for the purpose of Overseers as reported in a late Despatch, I have appointed the Artificers of that Company and some of the Veterans to this duty, which is carried on under one of the Subalterns. There will consequently be no Expense on Account of Workmen, while these Men will be advantageously employed. Most of the Materials, the Timber and Stone, will be procured from the Government Establishments, and the other articles will, as far as possible, be obtained from the Public Stores, so that the actual Money Expense will be confined to the purchase of Lime and Bricks. Repairs commenced. Method adopted to reduce expense.

You will observe, Sir, that a Wash House has been ordered for each Regiment. These are rendered indispensable by the Number of Women in Barracks and the impossibility of preventing their Washing in the Rooms, which is injurious in every point of view. The Expense of the two Wash Houses is only £61 7s. 3½d. as will be seen by the accompanying Estimate. Two wash-houses to be erected.

I, Sir, request your Authority for Undertaking the Work which I have now had the honor to report.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MESSRS. DUMARESQ AND WILFORD TO CAPTAIN STURT.

Sir, Sydney, 3rd April, 1828.

His Excellency the Governor having called upon us to furnish an Estimate of the probable Expenditure, which will be necessary in carrying into effect the repairs of the Military Barracks, together with the additions, suggested in the Report of the late Board of Survey ordered by His Excellency, We have the honor to state that the only *New* Buildings, which have been authorised, are a Wash House for each Regiment (two), the Expense of which is £61 7s. 3½d. as shewn by the accompanying Estimate. Estimated expense of new buildings.

With reference to the repair of the Barracks, we have to observe that, from the length of time the Barracks have been built, and left without a thorough Repair, the bad Workmanship in some instances, and in all the unfit state of the Timber made use of from not being properly seasoned, it is quite impossible Inability to prepare detailed estimate for repairs to military barracks.

1828. 3 April.

Inability to prepare detailed estimate for repairs to military barracks.

to come to anything like a satisfactory conclusion as to the extent of the Repair, which may be found necessary as the Work proceeds.

The Carpenter's Work requires general Repair, and in carrying it on, it is difficult to say that unavoidable injury may not be done to certain parts of the Building, which do not at present appear defective.

The Plastering requires to be almost entirely renewed, also the Flagging of the Passages, Verandahs, etc. The Door Locks are in bad order, as likewise the Windows.

The Roof, although it has lately been partially Shingled, requires repair, and must from the great extent of it be constantly attended to.

The whole of the Building should be coloured, and the Wood Work Painted.

We trust that this explanation will account for our not having it in our power to give in a satisfactory or Detailed Estimate. One might have been framed, but, under the circumstances we have stated, it could not have been prepared with any degree of accuracy. We have therefore thought it better to state the fact.

As all Stores Expended are most carefully accounted for and no Work undertaken that is not specifically authorised, no unnecessary Expense can possibly take place.

We have, &c.,

Wm. Dumaresq, Civil Engineer.
E. C. Wilford, Lieut., Royal Staff Corps.

[Enclosure No. 2.]

[*This was a detailed estimate of shingles, bricks, etc., amounting to £61 7s. 3½d.*]

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 64, per ship Eliza.)

Sir, Government House, 3d April, 1828.

Female convicts *per* ship *Elizabeth.*

I do myself the honor to transmit the accompanying Lists of Female Convicts lately arrived by the Ship Elizabeth from Ireland, considering from the question they involve that they may prove of some importance to the Public.

List No. 1 contains the Names of 19 Women, whose Husbands or Relations are already in the Colony. No. 2 is a List of 11 Women, whose Husbands are Under Sentence of Transportation but have not yet arrived.

Whether these Women committed the Offences for which they have been Transported as a means of joining their Husbands

1828.
3 April.

and relations, or whether they are the Victims of Crime unconnected with this object, is perhaps not altogether unimportant. In the former Case, it may be a question whether an attempt should not be made to put a stop to such proceeding, though the means may not be convenient or easily devised. It might be well to consider whether it would be best effected by sending out the Wives of Convicts soon after their Husbands are Transported, or by not transporting any Woman whose Husband had been sent out as a Convict. These appear to be the only means of effecting the object. The first would certainly render the punishment of Transportation less abhorrent and might operate as an encouragement to Crime.

Necessity for prevention of crime amongst wives of convicts.

The Second would perhaps be the more advisable course, as it might possibly prevent the Commission of Crime on the part of the Women who were anxious to join their Husbands; and the Men would, as at present, still have an inducement to behave well in the hope from that circumstance that their Wives would be permitted to join them.

I have, &c.,
RA. DARLING.

[Enclosures.]

[*These two lists have been omitted.*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private and confidential," per ship Eliza.)

My dear Sir, Sydney, 3rd April, 1828.

I adverted in my Letter of the 5th last month to the circumstance of Mr. Forbes having appointed an additional Clerk in the Office of the Supreme Court, the necessity of which, though I was not then aware of the immediate object, I had strong reasons to doubt. Mr. Forbes would have it believed that his Arrangements are directed with a view to œconomy. But I am not satisfied that this is his real motive. When he proposed the discontinuance of the Office of Master, he stated it would occasion a saving of £600 a Year, as will be seen by the correspondence which I have transmitted on the subject, but immediately recommended an addition to the Salaries of two of the Clerks, amounting to £250, And, as I mentioned in my last letter, has since appointed another Clerk at a Salary of £200 a Year. The Appointment of this latter person, if at all necessary, had, I have no doubt, also another object, that of securing the support of Mr. Dowling with whom this person came out and whose private Clerk he is. You are aware from circumstances how desireable it must be for Mr. Forbes to receive Mr. Dowling's support; and he is too crafty not to use any means in his power

Reasons alleged for additional clerk appointed by F. Forbes.

1828. 3 April.

Question of precedence of J. Dowling.

to obtain it. I cannot consider Mr. Dowling's yielding the precedence to Mr. Justice Stephen, after the communications I made to him both verbally and in writing, as you may see by my Despatch on the subject, as at all consistent. But Mr. Forbes from the first professed to doubt the Authority of a Secretary of State's Despatch in such a case. He said the precedence should have been given in Mr. Dowling's Warrant under the Sign manual. I had occasion not long since to point out that it appeared, by my Commission* under the Great Seal, that any Instructions, conveyed in the King's name by the Secretary of State, were to be considered the same as Orders under the Sign manual. I cannot abstain from repeating that Mr. Forbes's constant aim has been to set the Government aside, and to shew that the Chief Justice and the Supreme Court alone are competent to decide here. Everything, which occurs, should according to his view be made matter of legal inquiry and be referred to the Courts of Law. I hope Mr. Dowling will prove that he possesses sufficient firmness to resist him, until matters shall be put on a proper footing, and that he will not allow himself to be made such a Tool as his Associate.

Supreme power desired by F. Forbes.

I hesitated writing to you, as you have transferred the details of this troublesome Government† to other hands; but, as the subject is connected with my last letter to you, I have thought it better to conclude it in this manner.

I will not take my leave of you without thanking you for the attention you have shewn to my communications, and I assure you I am very sensible of the patience and kindness you have evinced in considering them. I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 65, per ship Eliza.)

5 April.

Sir, Government House, 5th April, 1828.

Defective indents of convicts.

I do myself the honor to forward herewith a Memorandum, which has been prepared by the Colonial Secretary at my desire, in order to bring under your Notice the very defective nature of the "Indents" of Convicts sent out from England and Ireland.

I will satisfy myself by stating generally, that the inconvenience, arising from this circumstance, is very great. But I will not intrude on your time, Sir, by repeating here what is so clearly explained in the Memorandum, further than to add that the information required would not only prove extremely convenient, but be important in some cases. I have, &c.,

RA. DARLING.

* Note 36. † Note 37.

[Enclosure.]

1828.
5 April.

Report by A. Macleay on defective indents of convicts.

MEMORANDUM respecting the defective state of the Indents of Convicts sent from England and Ireland.

1. The Indents or Assignments of Convicts by the Lord Lieutenant of Ireland to the Governor of New South Wales, specify the Term of Years for which each Convict is Sentenced to be Transported, but do not mention the time of Trial, or the Day from which the Term of Transportation is to be reckoned. Consequently when Convicts from Ireland apply for Certificates of Freedom, their own Statements of the times of Trial are necessarily adopted in the Colonial Secretary's Office as the periods from which their Sentences are to be calculated. It is not necessary to make any remark upon this state of things; but, as an instance of its Impropriety, the recent case of John Clancy may be mentioned. This Man arrived in the Colony on board of the Ship "Mangles" in February, 1826, and, although stated in the assignment to have been transported for Seven Years, he now demands a Certificate of his Freedom, declaring that he was tried five years before he was transported.

2. It appears to have been formerly the practice to mention in the Irish Assignments, the Assizes at which each Prisoner was tried, as "Lent Assizes," "Summer Assizes," etc.; but it is evident that to enable the Government of this Colony to do justice to the persons transported for a certain term of years, it is indispensably necessary that the Day and Month, from which the Sentence is to be reckoned, should be expressly stated.

3. Besides this very essential defect in the Irish Assignment Lists, it is remarked that they are exceedingly incorrect, and the descriptions of the persons of the Prisoners are worse than useless, because they are generally so erroneous as to occasion great doubt respecting the identity of the Prisoners. Differences of from 2 to 4 Inches in Stature and from 10 to *50* Years in Age frequently occur.

4. Bridget Leonard or Doyle, who arrived per "Lady Rowena" in May, 1826, is stated in the Assignment to have been transported for Seven Years; and, in the same Assignment, the name of Ann Byrne tried for the same offence is mentioned as also transported for *Seven Years*. But Ann Byrne was then left behind; and, when she arrived in February, 1827, P. "Brothers," her sentence is stated in the Assignment by that Ship to be for *Life*. She declares that she was tried for Shop lifting in August, 1825, and that she was sentenced to be transported for *Seven Years*.

5. Michael O'Donnell, who arrived per "Eliza" in November last, states that he was tried at Limerick on the 16th March, 1827, for *Manslaughter*, and was sentenced to be transported for *Seven Years*; but, in the Assignment, he is stated to have been tried for Stealing *in a Dwelling House* and to be transported for *Life*.

6. It is extremely desirable not only that correct information respecting these particular Cases should be obtained, but also that a correct List should be transmitted hither, as soon as possible, of all Convicts sent from Ireland to this Colony for 14 Years since the 1st of January, 1815, and for Seven Years since the 1st January, 1822, distinguishing the Day, Month, and Year from which each sentence is to be reckoned.

1828. 5 April.

Report by A. Macleay on defective indents of convicts.

7. It is also very desirable that Columns should be added specifying whether each Prisoner be married or single, and containing other particulars, as detailed below.

8. With respect to the Lists received with Convicts from England, it must be allowed that, although they do contain the very essential Information of the Dates of Convictions, they are yet more defective than the Irish Lists. The Prisoners from Ireland are formally assigned under the hand and Seal of the Lord Lieutenant; but all Prisoners from England are sent hither, accompanied merely by Lists on two or more loose Sheets of Paper without any Signature or other mark of Official Authority or authenticity, and there is great reason to fear that this informality will even occasion some unpleasant discussion in Our Courts, as recent events have encouraged Prisoners to apply for Writs of Habeas Corpus in expectation that identity or right of detention cannot be proved against them.

9. The English Lists at present contain four Columns, vizt., "Names," "Where Convicted," "When" and "Term." To these it is particularly desirable that Columns should be added for "Offences," "Ages," and whether "Single," "Married or Widowed." And it is very important, for many reasons, that as much as possible of the previous history of every Prisoner should be known here; it is to be wished that particulars should be stated of his Trade or usual occupation; and also whether he has been previously transported or convicted and how often, with a Report of his behaviour in Gaol and on board the Hulks.

10. Some of this information is now given by the Commanders of the Hulks to the Surgeon Superintendant of the Convict Ships, but on detached Lists, which are not always forth coming. The whole ought to be included in the Indents or Assignment Lists, and these it is submitted ought to be written on *Parchment*, and authenticated in some way, so as to prove in a Court of Law that the Individuals therein named are actually sent hither in pursuance of their respective Sentences.

ALEX. McLEAY.

Colonial Secretary's Office, Sydney, New South Wales, 5th April, 1828.

It would be convenient if the *Religion* of each Individual was stated. R.D.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch marked "Separate," per ship Eliza.)

Sir, Sydney, 5th April, 1828.

Death of C. Throsby.

I regret to have occasion to report the death of Mr. Throsby, Member of the Legislative Council, who put an end to his existence on the 2nd inst.

This Gentleman for some time past had suffered from a depression of spirits occasioned, as was supposed, by the circumstance of his having been adjudged by the Supreme Court to pay a Sum of £4,000.

About seventeen Years since, he became Security for the Purchase Money of a Vessel, bought by a Mr. Blaxcell,* who is now dead, and Mr. Throsby was in consequence called on to pay the Principal and Interest. 1828. 5 April.

The circumstance appears the more extraordinary, as Mr. Throsby was possessed of considerable Landed Property, two fine Estates containing about 20,000 Acres, as likewise of large and valuable Herds of Cattle. Property possessed by C. Throsby.

I am sorry, Sir, it is not in my power at this moment to submit to you the name of a Person to succeed the late Mr. Throsby as Member of the Legislative Council; but I shall do so by the first opportunity. The fact is, I have found considerable difficulty in making a selection from the Agricultural Body, which may serve as some proof of the means the Colony possesses of furnishing Members for a Legislative Assembly on an extended Scale. Difficulty in nominating successor in legislative council.

I had some thought of appointing a Mr. Browne, a very respectable Gentleman who came here some Years since from India and is a Magistrate of long standing. But I have heard just now of his having attempted to destroy himself this morning in a fit of Derangement. He has been placed under the necessary restraint, and is confined in the Hospital. Attempted suicide of W. Browne.

I may be permitted to observe that Persons, who have suffered from any temporary aberration of mind, should not be sent to this Colony. If there is nothing in the Climate which induces absolute derangement, there is undoubtedly something peculiar, which affects the spirits and produces extraordinary depression. It may possibly be accounted for in some degree by the sudden Transitions from Heat to Cold and vice versâ, which are frequently experienced here. But I shall not attempt to enter further into the subject. Colonists subject to mental depression.

I have, &c.,

Ra. Darling.

Governor Darling to Under Secretary Stanley.

(Despatch marked "Private," per ship Eliza.)

Sir, Sydney, 5th April, 1828.

It has occurred to me that it may be necessary to advert to a proceeding, which has lately taken place, in which Mr. Macarthur the Member of the Legislative Council has been concerned. But I do so only with a view of apprising you that I have studiously avoided interfering in the matter from its commencement to the present moment. This declaration appears necessary, as, from the Character the business has assumed, the Report *re* J. Macarthur.

* Note 38.

1828. 5 April.

Report *re* J. Macarthur.

Chief Justice may endeavour to make it appear that I have been concerned in it. I assure you, Sir, most unequivocally that I have not moved in it either directly or indirectly.

When it commenced, and I believe Mr. Macarthur was actuated by the best motives to prevent an indigent family from being oppressed, he waited on me, and informed me of the circumstance. I told him the Law was open to him and the Government could not interfere. The Attorney General happened to be at Government House at the time. I sent for him and in my presence he pointed out to Mr. Macarthur the course which, it appeared to him, ought to be pursued. Various proceedings took place after this, and it appears that the Supreme Court, in refusing a rule to the opposite Party to file a criminal Information* against Mr. Macarthur, ordered at the same time that he should pay all Costs. Mr. Macarthur considering this decision inconsistent and oppressive, intimated his intention of Impeaching the Chief Justice, and wished that the Information should be conveyed to him, through the Government. I afterwards saw him and he immediately determined on writing to the Chief Justice himself, which I understand he accordingly did; and I have neither seen Mr. Macarthur since, or heard any thing further on the subject. One of his Sons is going Home by this opportunity relative to the business of the Australian Company, and has directions, I understand, to proceed in the case of the Chief Justice, if it shall appear necessary.

Impeachment of F. Forbes proposed by J. Macarthur.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch marked "Private and confidential," per ship Cape Packet.)

7 April.

Sir, Sydney, 7th April, 1828.

Executive and legislative councils proposed by J. Macarthur.

Mr. Macarthur, the Member of Council, having called on me yesterday to submit a proposition with respect to the formation of the Executive and Legislative Councils, on which subject it is probable his Son will interest himself at Home, I am induced in consequence to advert to the matter before closing my Despatches, though I must do so hastily as the Ship is now getting under weigh.

Mr. MeArthur proposes an Executive Council of *nine* Members, the Legislative to consist of 21, that is twelve Members in addition to those of the Executive Council.

Constitution proposed for executive council.

The number proposed for the Executive appears out of all reason and the Composition is unusual and objectionable. He

* Note 39.

recommends that it should consist of five officers of Government, the Principal Surgeon being one, whose situation in my opinion gives him no claim whatever to any such distinction and *four Proprietors of Land.* 1828, 7 April.

In a private Letter (of the 9th February, 1827), to Mr. Hay, I submitted three Sketches for consideration, either of which might be adopted under certain circumstances. It is but just to Mr. Macarthur to state that no one can be better disposed towards the Government than he appears to be. But he is uncertain, and my opinion is from his proposing the Principal Surgeon, who is his Son in Law, and four Proprietors as Members of the Executive Council, that he is anxious to introduce himself and his immediate Friends, which would give him a preponderancy, that might hereafter prove extremely inconvenient to the Government. Proposals made by R. Darling. Presumed objective of J. Macarthur.

The point, Sir, which I am most desirous to recommend to your consideration, is the exclusion of the Chief Justice from both Councils. In my Letter to Mr. Hay above referred to, I suggested that the Chief Justice should not be a Member of the Legislative Council, and, in the "Remarks on the new Bill," which I transmitted to Mr. Hay with my Letter of the 17th December last, and to which I requested your attention in the Letter I had the honor to address to you on the 1st of last Month, I think it is rendered pretty clear (in Paragraph 4) that he should not have a Seat in the Executive Council. The power, which he derives from this, having the whole Judicial Authority in his hands, and the large portion he possesses as a Member of the Legislative Council, enable him so completely to control the Governor, as to leave him little more than the semblance of the Supreme Authority. I should respectfully submit, Sir, that the Executive Council ought to be formed more according to the Councils of the Presidencies in India than this is, which consist of the Governor General, the Officer commanding the Troops, and two Members, the Governor having, I understand, the casting Vote. In every question brought before the Executive Council, Mr. Forbes's object has been to give it a legal turn, remotely, if not immediately, so as to shew that a Lawyer only could properly judge of it. You will perceive, Sir, the effect of this is to give the Chief Justice extraordinary powers in the Government. I am not satisfied that the Executive Council would not be better constituted without a legal person of any description, as the Judges and Crown Lawyers could be referred to when necessary; a competent Attorney General might however be useful; but the Chief Justice should I think be confined to his own immediate Branch as in India, and not be introduced into any other Department of the Government. Proposed exclusion of chief justice from councils. Executive council in India. Influence of F. Forbes.

1828. 7 April.

Composition proposed for executive council.

I would therefore, Sir, respectfully submit for your consideration that the Executive Council consist of four Members; the Officer next in Command being the person, whom I presume it is intended should succeed to the temporary charge of the Government in the event of a Vacancy, The Colonial Secretary, the Surveyor General and the Attorney General. If the form of the Councils in India be adopted as the model, and I can see no objection, the Attorney General would in that case be omitted. I am free to admit that the Governor would be less controlled by this arrangement than he is at present, and I also think, if he is deserving of the confidence of His Majesty's Government, that he ought to be relieved from the undue control to which he is subjected under present circumstances.

I trust you will excuse the freedom with which I have expressed my Sentiments on this important subject.

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 66, per ship Cape Packet; acknowledged by Sir George Murray, 19th April, 1829.)

10 April.

Sir, Government House, 10th April, 1828.

Transmission of half-yearly blue book.

1st. I have the honor of transmitting herewith the half Yearly Tables required by the Circular Despatch, dated the 11th September, 1826, for the Year ended 31st December, 1827.

2d. A Multiplicity of other urgent Business and the important Nature of the Several Subjects, which are required to be reported on by the above Despatch, have prevented my forwarding these Tables at an earlier period.

Civil Establishment.

Reorganisation of civil establishment.

3d. My attention has continued to be directed to the completion of the regulations, which had previously been adopted for carrying into effect the New Organisation of the Public Departments.

4th. I have had occasion, as recently reported, to revise the Arrangement of the Business in the Office of the Colonial Secretary and the result has been the transfer from that Office of a great variety of Details, properly belonging to the Commissariat and the Convict Departments. This will relieve the Colonial Secretary and render him, as I have already Stated, available for the more important Duties of the Government.

5th. I have had the honor of addressing to you several special representations relative to the *Clerks,* and I have only to express

1828. 10 April.

my hope that the advantage of the Arrangements proposed will be apparent. It is peculiarly important in this Colony that the Individuals selected for these Situations should be of respectable Character. The first step to this is to render their Situations comfortable and to hold out to them an increase of Income as a reward for assiduity and good conduct. There are but few Situations into which a Convict should be admitted as a Clerk.

Departments of surveyor-general;

6th. The Department of the *Surveyor General,* the Duties of which are most important in this Country, must, notwithstanding the number of Assistants who arrived last Year, continue to be much in arrear, and, without a very considerable augmentation, it will be in fact impossible to bring up the business and keep pace with the demands for the Services of the Officers of that Department. I propose reporting specially on this head.

and of customs.

7th. Every attention has been paid to maturing the arrangements of the Customs Department. But it is a Matter of considerable Magnitude, and the total absence of every thing like System or arrangement in the former Establishment has rendered the undertaking arduous in the extreme. The present Measures are purely experimental, and the Establishment cannot be permanently fixed without further experience. The Coast Trade between this and Newcastle has rendered it necessary to Station an Officer at that Settlement, whose appointment will be specially reported.

Office for collection of internal revenue.

8th. I have had occasion to report particularly on the Establishment of an Office for the *Collection of the Internal Revenue,* which I trust, being of very great importance to the Government, will be confirmed. Utility and economy unite to recommend its adoption. It will assist in a great degree in rendering the present system complete.

Audit office.

9th. The Audit Office is also greatly in arrear and will require both time and labour to bring up the business. It existed only in Name on my arrival and the Crude and undigested State of the Several Departments and Establishments rendered it, until these were in some degree organised, useless and inoperative. I trust it will now assume a different Character, the Duties of that Office in this Government being highly important.

Departments of civil engineer and of roads and bridges.

10th. I have reported from time to time so fully and indeed recently on the Department of the *Civil Engineer* and of *Roads and Bridges,* that I am not aware it is in my power to add any thing in this place. I am now proceeding with every possible Despatch in reducing, to the utmost that Circumstances will permit, the Engineer Establishments, both at Sydney and the Out Stations, with a view of relieving Government from the Charge of the Prisoners employed in them; and I shall be glad to find

1828. 10 April. that the experiment succeeds, though there appears much reason to doubt whether competent Persons can be found to Undertake such Works as may be required by the Government.

Town surveyor. 11. A Town Surveyor has been appointed and duly reported for the purpose of attending to the order and regularity of the Buildings and preventing encroachments on the Streets. As the Town of Sydney encreases, which it is now rapidly doing, and Houses of a good description, at least I may say Handsome Structure, are succeeding the temporary Tenements originally erected, this office, which will have to provide for the Cleanliness and Comfort of the Town, will be one of great importance.

Inland post. 12th. An *Inland Post* has been recently established, but, being still in an incipient State, it is consequently Susceptible of improvement. So far however it has succeeded as well as could be expected, and there is no reason to doubt its continuing to do so.

Reorganisation necessary under R. Darling. 13th. I may perhaps be excused, before closing this branch of my report, for adverting to the various and laborious Duties which the present Administration has had to perform. On my Arrival, the Government was a perfect Chaos. There was neither System nor regularity, and every Department acted of itself without reference to another. The Correction of these radical defects has been a principal object with the present Government, and I have no doubt the result will be a satisfactory proof of the exertions which have been used. I had hoped that ere this the Arrangements would have been Completed; but I was not aware of the task the Government had to perform. In short, every thing remained to be done. Matters were in an infinitely worse State than if no Government had existed; and I apprehend the exertions, which some Individuals have been required to make, and the observance of regularity and order, which has been imposed on Others, have by no means tended to reconcile them to the present state of things. The extra Duties, which some have had to perform and which in some cases have been and still continues to be, to a very considerable extent, in forming Boards and Making the enquiries and investigations necessary to the general organisation, which is progressively carrying into effect, have interrupted the current Business of their own Departments and thrown a great additional Burthen upon them. It is however satisfactory to think that when once completed the System will work well, as the just combination of the Several Departments cannot fail to render their respective Duties comparatively light.

Revenue and Expenditure.

Increase of revenue. 14th. The Revenue of the Year 1827, Ordinary and Extraordinary, shows a total Increase over that of 1826 of about £7,000.

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the increase of the Ordinary Revenue forming about £3,000 of this Amount. The Increase in this Branch, the Ordinary, would I have no doubt have been much more considerable had it not been for the high Price of Spirits imported, owing to the limited Supply received, which must have operated materially to lessen the consumption. This cause having recently ceased by encreased Importations, this Branch of the Revenue for the last two Months has considerably improved.

Appropriation of produce of government establishments.

15th. It is hoped that the arrangement, which has been made and reported for the appropriation of the produce of the Several Government Establishments to the Funds of the Commissariat, as a Means of assisting in the Maintenance of Convicts, will be approved. The Revenue applicable to Colonial Purposes will of course be proportionably diminished; But the appropriation of this Extraordinary Branch to the purpose above pointed out appears strictly consistent and proper.

Causes of increase in expenditure.

16th. The Increase in the general Expenditure of the Colony will until explained appear considerable; But it may be satisfactorily accounted for as follows, Vizt.:—

1. The purchase of large Supplies of Colonial Salt Meat in consequence of the discontinuing to send out Salt Provisions from England, a measure extremely desirable to the Colony as affording the Settlers the means of disposing of their Stock, for which there was before comparatively no demand.
2d. The Arrival of a much larger Number of Convicts in the year 1827 than in the preceding Year.
3d. The delay in receiving Stores from England for the Service of the Year 1827, which rendered it necessary to purchase on the Spot, at the Colonial prices, such Stores as were required for the Public Service.
4th. The Establishing New Settlements on the Coast and providing and keeping up the necessary means (purchasing and hiring Vessels) of supplying and communicating with them, of which ample details have been already transmitted Home.*

* The following Abstract shows the Amount of the *Revenue* and *Expenditure* for the *last Year*, under their general Heads, Vizt.:—*Revenue.*—Ordinary, £70,206; Extraordinary, £9,103; Total, £79,309. *Expenditure.*—Civil Government, £76,000; Maintenance of Convicts paid by the Home Govt., £132,572; Military, £61,556; Total, £270,128. Deduct Colonial Revenue, £79,309. Amount chargeable to the Home Government, £190,819.

The Sum (Civil Government) £76,000 includes an advance to the Church Corporation for the payment of the Stipends of the Clergy and other indispensable purposes which they have not Funds at present to meet, £14,000; Also one Eighth of a Certain branch of the Revenue granted for the Support of the Orphan Schools, say, £5,000; Total, £19,000.

It is presumed that although the Revenue of the present Year is charged with these Items, that it will hereafter be relieved from them.

1828.
10 April.

Military Establishments.

17. The Military Establishments have lately undergone but little alteration further than such as appeared necessary in the Distribution and relief of Detachments at the Several Stations. When it is taken into consideration that, exclusively of the Ordinary Duties at Head Quarters and at the Detached Stations in the Interior, the Troops in this Command are necessarily employed for the protection and Police of the Penal and other Out Settlements, that Several of these Stations are at a great distance from each other, requiring in some Cases two or three Months to communicate with the Seat of Government, it will be seen that the present Military Establishment is much too limited, and that an Augmentation is not only desirable but necessary to the Security of a Colony, situated at so great a distance as this is from the Mother Country, and of which the greater portion of its population were originally transported Felons.

Necessity for increase in military establishment.

18th. On the representation of Deputy Commissary General Laidley, who in June last succeeded to the charge of the Commissariat Department, an enquiry was instituted by the Orders of the Lords Commissioners of His Majesty's Treasury into the efficiency of that Department for the discharge of the duties assigned to it.

Inquiry into commissariat department.

It appeared that for Several Years past this Department had been adequate to little more than the carrying on the Current Duties within the Colony, which are very extensive and important; and that consequently arrears and delay had taken place in the Making up and transmission both of the Commissariat Accounts and of the Returns and other Documents required to be sent to England by the Treasury Instructions. The Augmentation in this Department, which I have been induced to sanction for the purpose of removing the inconvenience which the Public Service must suffer from any delay in Making up the Public Accounts, are such as were considered Necessary by the Board and the Deputy Commissary General, and are not, as far as I have the means of judging, greater than are necessary considering the extensive range of the Department.

Augmentation in department.

Judicial.

19. The Principal Changes in this Department are the arrival of Mr. Baxter, the present Attorney General, on an increased Salary of £1,400 per Annum, and the Appointment of Mr. Foster to Act as Solicitor General, which was also attended with additional Expense. The latter appointment had remained vacant since the advancement of Mr. Stephen to be one of the Judges of

Appointment of A. M. Baxter and W. Foster.

the Supreme Court. On the representation of the Attorney General, Mr. Foster was appointed to fill the Vacancy for the purpose of assisting that Officer in the execution of his duties, which are at all times arduous, and which had been rendered more particularly so at the time of the appointment owing to the licentious State of the opposition Press. 1828. 10 April.

20. The Number and description of the Population, consisting chiefly of small Settlers and Persons who had formerly been Convicts, in the Districts of Airds, Appin and Upper and Lower Minto, had so much increased the business of the Court of Magistrates at Campbell town (which is situated in the first mentioned District) that the attendance of the Magistrates, most of whom reside at a distance, could not be given so often as was desirable; and it was in consequence found necessary, for the regular discharge of the Police Duties of those Districts, to appoint a Stipendiary Police Magistrate, as has been already specially reported, who should be resident in the Town. Stipendiary police magistrate appointed at Campbelltown.

21. My attention was early directed after my arrival to the reorganisation of the important *Department of Police,* and I have every reason to be satisfied with the result of the Arrangements which I was led to adopt and which has been approved and sanctioned. In proof of its efficiency, it may be stated that any Crime of a serious nature very rarely escapes detection. Police department.

Ecclesiastical Establishment.

22. Two Chaplains have been added to this Establishment and lately arrived from England, the Reverend Mr. Smith and the Revd. Mr. Vincent. It is no doubt extremely desirable that the Inhabitants of every part of the Colony should have an opportunity of receiving religious Instruction. But it is evident that the State of the Church Funds does not at present admit of this Establishment being encreased. There are now 14 Chaplains and 5 Catechists employed, who are Stationed in the most populous Districts, and I should doubt whether any Material benefit would result from placing others in the more remote parts of the Country where the Inhabitants are thinly scattered. The Settlers cannot conveniently go any distance from their Homes, nor is it for obvious reasons desirable that they should. Chaplains and catechists.

23. It may be observed as Matter of Regret that, even where Clergymen are established, the Churches in general are not well attended. It appears by the Returns furnished that the Number generally attending the churches already established, being Seven in Number, Amount to no more than about 1,800, though those Churches are calculated to afford accommodation to 4,200 Persons. Small attendance in churches.

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Necessity for selection of clergy.

24. This fact of itself renders it of the utmost consequence that, in the appointment of Clergymen for this Colony, Men of the most respectable Character should be selected, who, by their influence, example and abilities, might be the means of recommending the practice of the duties of religion and a more frequent and numerous attendance at the places of Divine Worship. It may be proper to observe, while on this subject, that many of the Clergymen here are remarkable for the zealous discharge of their duties and merit the warmest commendation. It has been suggested I think by Lieut. Governor Arthur that Catechists might be beneficially employed at the several Penal Settlements, and I am fully of opinion that, generally speaking, Persons of that description would prove more useful at those Settlements than the Established Clergy.

Catechists at penal settlements.

Manufactures.

Little progress in manufactures.

25. As may readily be supposed in a New Colony where Capital and Population bear so small a proportion to the extent of land remaining uncultivated, and where labour is consequently high, Manufactures have not yet made any considerable progress, nor are they likely to do so for many years to come.

Cloth made for convicts' clothing.

26. *Coarse Cloth* remarkable for its superior durability is manufactured for the Clothing of the Convict Population at the Government Weaving Establishment at Parramatta, by a few Individuals in the Vicinity of Sydney, and by some of the more opulent Settlers for the use of their assigned Servants. The preference given to this description of Cloth over that, which is imported, in Consequence of its greater durability and the low price of the Coarser Sorts of Wool, will most probably lead to an extension of this Manufacture, which furnishes profitable means of employing Weavers who are transported hither.

Manufacture of soap.

27. The superior quality of the Soda, obtained from the incineration of the Mangroves at Botany Bay and other parts of the Coast, has led to the Establishment of two or three Manufacturies of Soap, one of which, Mr. Dickson's, is on a large Scale. The Soap Manufactured is of a good quality, little inferior to that received from England, and is offered for Sale at a cheap rate, about 5d. per lb. when taken in large quantities. It may be doubted, however, whether the profits of Capital applied to this Manufacture will be equal to those which may be obtained by employing it in various other Channels which present themselves. If not, these Manufacturies will consequently be neglected.

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28. The greater portion of the *Candles* for internal consumption are also Manufactured within the Colony, chiefly at Sydney, but also by individual Settlers for their own use. Candles.

29. Three *Steam Engines*,* two at Sydney and one near Parramatta, are advantageously employed in grinding and dressing grain, and another is now in the Course of being erected at Sydney. Several additional *Wind Mills* have also been recently erected, and both Water and Wind Mills for grinding and Dressing grain are worked in various Districts of the Colony. Steam engines and windmills.

30. A very considerable quantity of *Salt* has during the last Year been Manufactured at the Works of Mr. John Blaxland on the Parramatta River, and Salt is also made in the Vicinity of New Castle. The Salt produced is of a sufficient Quality for common purposes, but, for curing Meat intended to be Kept, the Liverpool and other imported Salt is preferred, the process of purifying Colonial made Salt sufficiently for the purpose having been hitherto found too expensive. Salt.

31. *Brewing* has made considerable progress during the last Year, and promises to lessen the Consumption of Ardent Spirits which would be a most desirable result. Two large and very expensive *Distilleries* have been erected in the Neighbourhood of Sydney, and another on a Small Scale has been set to Work at Bathurst; but the Price of Grain this Season, in Consequence of the failure of the Crops, has necessarily impeded their operations. Brewing. Distilleries.

32. *Cheese* is made in every part of the Colony and of the best quality, being generally preferred to the Cheese received from England. It is sold at 1s. 3d. per pound. Cheese.

33. A *Tannery* has been established by an enterprising Individual at Sydney where *Leather* of a good quality is Manufactured. Several of the more opulent Settlers in the Interior also Manufacture Leather for Harness and Farm Use. The Bark of the Mimosa decurrens or Black Wattle and of some of the other Trees of the Colony is favorable to the extension of this Manufacture. Manufacture of leather.

34. The Manufacture of Tobacco the growth of the Colony into the description called Negro Head has been lately much advanced and improved and bids fair to supersede the importation of that Article from the Brazils or elsewhere. It is my intention in consequence to encrease the duty on imported Tobacco, in order to encourage the Cultivation of Tobacco in the Colony. Tobacco.

Mines and Quarries.

35. The Coal Mines at Newcastle produced last year 3,500 Tons; a small proportion of the produce was exported,† the Production of coal.

 * Note 40. † Note 41.

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remainder being chiefly consumed at Sydney. These Mines will encrease in Value as the Timber in the neighbourhood of Sydney used as Fuel diminishes. But there is not at present any opportunity of rendering the Coals produced an Article of Exportation.

Sandstone.

36. *Quarries* of compact *White Sand Stone* of a good quality for Building are worked in the very heart of Sydney, as well as in its vicinity, and this description of Stone is readily procurable in most of the Settled Districts.

Limestone.

37. *Lime Stone* is very generally diffused at some distance from the Coast, but, as it is used only for Building, Quarries are not worked for the purpose of procuring it.

Granite and marble.

38. Masses of *Granite,* which have been found to answer as Mill Stones, are said to be procurable amóngst the Blue Mountains, and Marble has been observed in Argyle and other places, which in the progress of time may become of Value for Building.

Fisheries.

Fisheries.

39. The advantages, which the geographical position of this Colony gives it for carrying on the Oil and Seal Skin Fisheries in the adjacent Seas, have been pointed out under the Head of Exports. The attention lately attracted to this Subject in the Colony will most likely be the means of placing them in a train of being more fully appreciated. Fish for daily consumption of a good but not superior quality is procured in Sydney Cove, Botany Bay and on other parts of the Coast; but the Means resorted to for procuring it are very limited in consequence of the abundant Supply of Butcher's Meat.

Commerce.

Excess of imports over exports.

40. On an inspection of the Statements of Imports and Exports for the Year 1827, the feature which appears the most striking is the excess of the former over the latter.

The estimated value of the Imports is £362,324; of Exports only £76,314, showing a balance against the Colony of no less than *£286,010.*

41. Previously to the establishment of the Custom House in April last year, the correctness of the Statements of Exports and Imports cannot be at all relied upon; but there can be no doubt of the excess of Imports having last Year been very considerable.

42. Deducting even from the Excess as above Stated the Amount of Commissariat Bills drawn in the Course of the Year, being about £175,000, and that of private bills drawn by Paymasters, Military Officers and others, say £10,000, there would

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still remain a Balance to the debit of the Colony of about £100,000, for which there appear no adequate means of Making Returns.

Debit balance against colony.

43. Though at first sight this Balance against the Colony may indicate a degree of embarrassment in its affairs, a further consideration will lead to an inference of a less unpromising nature.

44. There is no reason to conclude, from any legal or other proceedings which have become before the Public, that the Importers of Goods or the Consignees of Imports have failed to satisfy the Calls of their Correspondents in England.

Probable introduction of capital.

45. It appears therefore fair to infer, from the Circumstance of the Value of the Imports so much exceeding that of any visible means of adequate returns, that Capital is in the course of being transferred to the Colony, either directly by Persons Emigrating as Settlers, or indirectly by the extension of Credit to Importing Merchants and others, and that for part at least of the Capital thus advanced, those furnishing it are Satisfied with receiving Interest.

Advantage of transfer of capital.

46. This transfer of Capital, while it indicates that the Colony has established for itself a Credit in England and elsewhere, cannot fail to advance its prosperity by calling forth its resources and ultimately enabling it to extend its Exports, and in this point of view this Excess of Imports into a New and rising Colony ought to be regarded rather as a favorable prognostic than the reverse.

47. Up to the present Moment, the confidence which may be supposed to have induced this excess of Importation seems to continue unabated, the value of Imports for the first Quarter of the present Year having exceeding £100,000.

Articles of import.

48. Of the Items of Imports during last Year, the following appear to be the most remarkable:—

Sugar (Estimated Value), £21,313; Tea, £14,618; Spirits, £28,101; Wine, £24,546; Beer, Ale and Porter, £10,731; Tobacco, £5,747; Soap, £8,149; Wheat, £16,849; Total, £130,054; the other Articles to the Amount of £155,956, consisted chiefly of British Manufactures.

Consumption of luxuries;

49. From the above Enumeration, it may be inferred that as great a portion of Luxuries, at least, of Articles not generally reckoned of the first necessity, are consumed in this Colony in proportion to its population as in any Country of the Globe.

and of sugar.

50. Taking the first Article "*Sugar*" as an instance, and reckoning the average entered Value 3d. per pound and the Population of the Colony at 50,000, there will appear to be consumed annually thirty four pounds of Sugar by every Member of the population.

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Cause of consumption of luxuries.

51. The great consumption of the Articles referred to arises from their general use by every class of the community. The high price of Labour enables the lowest of the Free Population to command an ample Share of such Articles, and, by long established Custom, the Articles of Tea, Sugar and Tobacco are supplied to the Convict Population as a Stimulus to labour, or as rewards for good Conduct.

Value of spirits imported.

52. In the enumeration above alluded to, the value of Spirits imported will appear great, and it may be therefore proper to remark that the Amount of the estimated value includes that of 30,425 Gallons imported for the use of the Troops valued at £4,082, which reduces the value of those for general consumption to £24,231. It would indeed appear that the Consumption of Spirits in the Year 1827 was not so great as in the preceding Year, owing probably in part to an encrease in the Consumption of Wine and Beer, which is a Circumstance of a very gratifying nature and highly important in this community.

Wheat imported from Tasmania.

53. The Value of *Wheat,* imported last Year from Van Diemen's Land, was it will be seen very considerable. This large importation was the effect of the long drought which has been experienced, and the consequent failure of the Crops in this Colony, which must be severely felt by the Inhabitants generally for some time to come.

54. Van Diemen's Land however is capable of furnishing Wheat for the Consumption of New South Wales and will probably long continue to supply this Colony. The productive Districts of this Colony are generally so far Inland that the Expense of Carriage would much exceed that of transporting by Sea to Sydney the Wheat grown in the Districts adjacent to Port Dalrymple on the North of Van Diemen's Land, and indeed the Proceeds of Sale at Sydney would not in many cases repay the Expences of land Carriage.

Difficulty of land carriage.

Imports chiefly from England.

55. By far the greater part of the Imports into this Colony are derived from the Mother Country. The Articles procured elsewhere are chiefly Tea from China, Sugar from the Mauritius, Wheat from Van Diemen's Land, Tobacco from the Brazils, and Wine from the Cape of Good Hope. China, the Mauritius and Van Diemen's Land may be Considered as almost exclusively supplying the Colony with the three first Mentioned Articles; but a Considerable portion of the two last are also imported from England. Occasionally Vessels from India and Batavia also import some of these and other Articles, but the intercourse with the last mentioned places is very limited and irregular.

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Trade with New Zealand.

56. A Kind of Trading Establishment* has lately been formed by two Merchants of Sydney at the Port of Shukianga on the North West Coast of New Zealand for the purpose of procuring New Zealand Flax and Pine Logs, which promises some success.

57. The traders, sent thither for the purpose of bartering with the Natives Axes, Tomahawks, Tobacco, Musquets, Powder, etc., for Flax and Timber, were joined by some of the Mechanics sent out by the New Zealand Company,* who Voluntarily returned from Sydney to that Island, after the projects of the Company had been abandoned; and the Establishment thus augmented, besides continuing to Trade for Flax and Timber, have lately constructed and sent hither a small Vessel of Forty Tons for the New Zealand Trade, and they are now employed in Building a Schooner of 150 Tons.

Friendly disposition of Maoris.

58. The Natives it appears so far from Molesting have hitherto readily assisted them, and, as the Establishment consists now of about thirty Individuals, they begin to feel a Confidence in being able to protect each other.

Available supply of flax.

59. It is Stated that the extension of the Supply of Flax, to be procured at New Zealand, is limited only by the confined Wants of the Natives, and, as these wants must gradually encrease by their intercourse with Europeans, it is probable that the quantities procurable will be proportionately augmented.

Trade from New Zealand to England.

60. A Vessel (the Harmony) has lately been despatched direct from Shukianga to England, with a Cargo of Pines and New Zealand Flax, which by the assistance of the Natives was readily procured.

Payments for foreign imports.

61. The Returns for Imports from China, the Mauritius and Brazils are made chiefly in Commissariat Bills, the resources of the Colony not yet furnishing other Articles of Exchange with these Places, or at least not to any considerable extent.

Export of coal, timber and shingles.

62. *Coals* have however occasionally been sent from this Port to the Mauritius and Rio Janeiro, and *Timber* and *Shingles* have lately been Shipped as a Means of Remittance to the former.

Possible exports to China.

63. *Sandal Wood* and other Articles procurable at some of the South Sea Islands may in the course of time furnish means of Exchange with China for Teas imported from thence, but the prospect of adequate Returns in the Shape of Exports to China is as yet very remote. There is however little doubt that several of the Articles of Import, before enumerated, will in time be produced within the Colony and leave the Capital now expended on their importation disposable for other objects.

Cultivation of tobacco.

64. The Soil and Climate of this Colony are suited to produce as good *Tobacco* as those of any other Country and the

* Note 42.

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Cultivation of this Article has been lately so much extended that, in a very few years, the Colony may be expected to supply itself with this Commodity.

Probable decrease in import of spirits.

65. The *Distilleries,* which are now prepared for distillation from Grain raised within the Colony, may also be expected, unless prevented by a continuation of seasons like the present, gradually to diminish the demand for imported Spirits, and the improvement lately effected in Brewing from Colonial Grain and Hops to supersede in a great degree the importation of Malt Liquors.

Manufacture of soap.

66. The *Barilla,* obtained from the Mangroves which line parts of the Coast and Creeks communicating with the Sea, is found to be of so superior a quality for Making *Soap* that two Manufacturies of this Article, one of them on a large Scale, have been established at Sydney and offer to furnish Soap of a good quality at 4d. to 5d. a pound by the Ton.

Production of wine.

67. The production of Wine within the Colony has not been attended with the Success at first anticipated; but it is scarcely to be doubted that, with the varieties of Soil and Climate which this Country presents, the Making of Wine will ultimately form a Branch of Colonial Industry.

Cultivation of sugar-cane.

68. The Experiment made at Port Macquarie to ascertain the practicability of raising *Sugar* leaves no doubt that the Colony will in time be able to supply itself with this Article, and two Settlers, one of them a Sugar Planter from the West Indies, are preparing to cultivate the Cane and Manufaeture Sugar on the Banks of the River Manning.

Articles of export.

69. The most prominent Artieles in the Statement of Exports will be found to be—

Wool, estimated Value, £24,306; Sperm Oil, £20,560; Black Oil, £4,265; Seal Skins, £6,471; Cedar, Blue Gum and other Timber, £12,472; Raw Hides and Horns, £1,147; New Zealand Flax, £1,806.

Cause of decrease in export of wool.

70. The Exports of *Wool* for last Year appear to be eonsiderably less than in the year preceeding. This however is not caused by a falling off in the quantity of Wool produeed, as the produce of last year from the natural increase in the number of sheep must have considerably exceeded that of the Year preceding, but is entirely attributable to the circumstance of the greater proportion of the Wool of last Year's shearing not having been Shipped till after the close of that year. That this is the real cause of the apparent deficiency is evident from the fact that the Export of Wool, since the eommencement of the present year, already exceeds *500,000* Lbs. Indeed, there can be no doubt, from the encreased attention to the improvement of the quality

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of the Wool by the introduction of the best Spanish and Saxon Sheep, of which a considerable number was imported last Year, as well as to the raising of Wool generally, that the Value of this Staple Article of Export will be gradually if not rapidly augmented.

Produce of fisheries.

71. The Produce of the *Fisheries* of the Circumjacent Seas formed, it will be perceived, the most important Branch of the Exports of last year, the total estimated value of Oil and Fur Seal Skins Exported being £31,296, of which Amount £20,560 is the estimated value of the Export of Sperm Oil alone.

Whaling.

72. The *Sperm Fishery* has hitherto been prosecuted here almost exclusively by the House of Jones and Walker of this Place, who at present employ Five Vessels in the Fishery. The Success, which has attended the enterprise, has excited a strong impression of the importance of this Fishery, and another Merchant has lately fitted out a Vessel and embarked in the same undertaking.

73. New South Wales indeed, from its situation in the Vicinity of the Seas which the Sperm Whales frequent, possesses advantages for carrying on this Fishery superior perhaps to any other Country, and the Whale Fishery will probably at no very distant day prove one of the greatest sources of its prosperity.

74. Ships from any other quarter have a long voyage to perform before they arrive at the Fishing grounds, and their owners are subjected to much anxiety from the delay which takes place before they can receive any returns for their Capital. Despatched from Sydney, the Fishing Vessels are at once in the Seas for carrying on their operations, and, as soon as their Cargo is completed, they return hither, discharge, refit and proceed in quest of another Cargo without being subjected to any other delay. The advantages of this saving of time and of the more frequent and effectual Superintendence which the Merchant, residing in Sydney, is thus able to bestow on the refitting and keeping his Vessels constantly employed, is estimated by those conversant with the Subject to be equal to *at least* from 20 to 25 per Cent. in the profits over those of Owners resident in England; and it is looked upon as a Matter of surprise that the latter has so long overlooked advantages so considerable and so obvious.

Export of timber;

75. The Exports of *Blue Gum* and *Timber* of a similar description have lately been almost entirely discontinued, in consequence of the low price obtained for them in England. The Export of Cedar however was greater in the last than in the preceding year, the estimated value having been about £10,000.

and of hides and flax.

76. The value of Exports in *Raw Hides* and *New Zealand Flax* may be expected gradually to encrease.

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Standardised currency.

77. As connected with commerce, it may be proper to state that the arrangements, which, with a view to give effect to the Instructions of Government, I was led to adopt in the year 1826 for improving the Currency of the Colony, may be considered after Six Months' further experience as having completely succeeded. The Colony now possesses a Standard of Currency conformable to that in England, public Accounts and pecuniary engagements and transactions of every description have been advantageously simplified, and the inconveniences and intricacies of the former system almost entirely done away.

State of banks.

78. The two *Banks* continue in Credit, particularly the Bank of Australia, which has gained considerably on the older Bank of New South Wales, owing to the election of Individuals to the direction of the latter who do not possess the Confidence of the Public.

Amount of bills discounted by banks.

79. The *New South Wales Bank* has in consequence prudently diminished its Discounts, so that, with a Capital actually paid up of about £20,000, the Amount of Bills it possesses, on which Discounts have been effected, is under £40,000, while the Bank of Australia with the like Amount of Capital holds discounted Bills to the Amount of Upwards of £60,000. Were it not for the high degrec of credit in which the Bank of Australia stands at present, it might be supposed that it has discounted to too large an amount.

Proposed circulation of British silver coin.

80. The only point in regard to the *Currency,* which would now seem to admit of improvement, would be to rid it of the *Dollars,* three quarter and quarter Dollar Pieces, which continue still to circulate and proportionately to diminish the circulation of British Silver Money. To effect this, it would be necessary to receive these Pieces in exchange for Bills, or, on the samc principle as is usually resorted to in England for effecting the introduction of a New Coinage, to hold out some inducement to their being brought in and exchanged for British Silver Money, and when collected to dispose of them for Exportation or send them Home to the Mint for recoinage. But, no particular inconvenience having been brought under my notice as connected with their circulation, I have not deemed it necessary to interfere.

Agriculture.

Prevalence of drought and failure of crops.

81. The last year has been remarkable for a Drought, which with the exception of somc partial Thunder Showers continued uninterrupted during the whole of the year. The consequence has been a failure estimated at one half of the ordinary average Crop of *Wheat,* and a still more considerable deficiency in that of *Maize.* The Crops of other Species of Grain and cultivated

Grasses suffered proportionately. The failure was not equally felt in all parts of the Colony. On dry elevated Soils, scarcely any produce was obtained, while Grain sown in low humid situations, such as the Banks of the Hawkesbury and Hunter's River, yielded a tolerable return. The pressure, which the late failure of the Crops has occasioned, must be long severely felt, particularly by New Settlers in the more remote Districts, some of whom are now obliged to convey their Supplies of Flour from Sydney, a distance of from 150 to 200 Miles, or to purchase it from their Neighbours at 20s. a Bushel. 1828. 10 April.

82. It is the general opinion however that the Wheat already imported, or in the course of Importation from Van Diemen's Land, added to that expected to arrive by three Vessels which have been despatched by the Merchants to South America for Cargoes, may be considered as having removed all cause for apprehension that the scarcity will occasion any great distress before the next Crop comes in. Should this Crop also fail, the consequences must indeed be very serious. Wheat imported from Tasmania and S. America.

83. The effects of a Scanty Harvest are greatly aggravated in this Colony from peculiar circumstances. When the Crop is abundant, there being no advantageous Market for the Surplus Produce, the prices fall so low as not to remunerate the grower. In such case, the improvidence of most of the small settlers obliges them to dispose of their Grain almost at any price to pay off the Debts for which the Crop has been pledged; and even the more prudent feel the less disposed to reserve their Grain, in consequence of the heavy loss to which it is liable while kept in an unground state from the attacks of the *Weavil* and other insects, which they have not yet discovered the means of effectually preventing. When a deficient Harvest occurs, the pressure is consequently little alleviated by the reserved Grain of a season of greater abundance. Want of regular market for grain.

84. This precarious State of the Colony in regard to the Supply of Articles of the first necessity is however in the course of being gradually remedied. The preparations, which have recently been completed for distillation from Grain, by taking off the Surplus and preventing a ruinous fall of price in years of plenty, will encourage a more extended production in every Season and thus provide a Supply which would diminish the distress of an unproductive Harvest. Advantages derived from distilleries.

85. Besides *Colonial Distillation*, other means calculated to prevent or lessen the evils of scarcity are in the course of gradual development. It is now generally admitted that with proper care in the drying and grinding of the Wheat of the Colony, and in the packing and cooperage of the Flour produced, the keeping of Stabilising market by storing flour.

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Stabilising market by storing flour.

the latter may be ensured for a sufficient length of time, and the Wind, Water, Draught and Steam Mills, which are fast encreasing in number, may be expected shortly to furnish efficacious means of reducing the Wheat into Flour with sufficient promptitude to prevent the heavy loss hitherto sustained by the attacks of the Weavil on the former while kept for a length of time in Store in an unground State. Capacious Store Houses have also recently been erected by the more opulent Millers and Corn Dealers, and the Success of this useful Class has attracted Capital to the Business, which must tend ultimately to render the supply and prices of Grain and Flour more steady and equable than could possibly be expected before these arrangements, so important in every community, had come into operation.

Probable improvements in agricultural conditions.

86. It is on the operation under the powerful incitement of individual interest and the gradual developement of these measures for extending the Market for the products of the Soil and giving Steadiness to the price of grain, on which any well grounded reliance can be placed either for preventing or alleviating the pressure of Scarcity or for exciting that encreased attention to Agriculture and the Cultivation of the Soil so essential to their improvement. The opening in short of New Markets by Colonial Distillation, or such other means as present themselves, the leaving the Commerce in Grain free and unfettered, and the operation of those changes which naturally spring up in a new and advancing Country in the division of labour, the profits of Capital and the increase of Population, may be regarded as the only sure means of promoting those improvements in agriculture, which must in time change the face of the Country, and shew the effects of an advanced State of Cultivation.

Agricultural districts.

87. The Districts, in which *Grain* is chiefly raised and agriculture consequently the farthest advanced, are situated at a distance from Sydney, the grand Mart for that Commodity.

88. In a Westerly direction, little Grain is produced owing to the inferior quality of the Soil, till you advance beyond Parramatta to the distance of about twenty Miles from Sydney. To the West and South West of the former, Grain has long been cultivated in the cleared portions of the Districts of Prospect and Baulkham and Pennant Hills; but, from over cropping and the dry elevated Situation of the Soil, the produce does not much exceed the internal consumption of those Districts.

89. Advancing beyond Liverpool to a distance of about twenty five Miles South West of Sydney, you enter the Cultivated Districts of Airds, Bunbury Curran, Appin, Cooke and Minto, where, unless in Seasons of Drought, considerable quantities of

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Grain are produced chiefly by the Small Farmers who have been attracted by the fertility of the Soil to this beautifully undulated part of the Country.

Agricultural districts.

90. Beyond these on the Banks of the Nepean, good Returns of Grain are obtained on the low Plains which have been fertilised by its Waters. It is, however, on the Banks of the Hawkesbury above and below Windsor, where the greater proportion of Grain for the Sydney Market has hitherto been supplied. The Alluvial Soil on its Banks is of the best description and yields abundantly without much care in the culture.

91. The Coast District of Illawarra, adjoining the Shoal Haven River about Seventy Miles from Sydney, contains, between the Coast and the Range of Mountains on the West, a considerable extent of fertile cultivated Land, and, as this District is accessible by Sea, it may shortly be expected to export Grain in considerable quantity to the Sydney Market.

92. Wallis Plains, situated on Hunter's River about twenty Miles, and Paterson's Plains, on the Second Branch of that River about thirty Miles from New Castle, are both of them also accessible by Water Conveyance. They are chiefly occupied by Small Farmers and furnish considerable quantities of Grain beyond their own Consumption, part of which is exported to Sydney.

Agriculture in interior affected by transport.

93. Onwards in the Interior beyond the Districts which have been adverted to, the quality of the Soil in many Situations is much Superior to that of the most of the Land nearer the Coast, but the expense of Transport renders it unprofitable to raise more Grain than is requisite for the immediate Wants of the Neighbourhood.

94. The Principal Grain District, that of the Banks of the Hawkesbury, is at a distance of at least thirty six Miles from the Sydney Market, and consequently under a disadvantage as to land Carriage of an expense nearly if not quite equal to that of Freight by Sea from Van Diemen's Land. Owing to this disadvantage and the superior adaptation of the Soil and Climate of Van Diemen's Land for the production of Wheat, which the Country in the vicinity of the Port of Launceston to the North of that Island possesses, large quantities of that Grain are imported from thence to the Sydney Market. The importation last year amounted to about *60,000* Bushels, and, owing to the failure of the Crops, the quantity, which will probably be imported this year, may be expected to be much more considerable. It may be estimated that on an average the Port of Launceston supplies the Sydney Market with about one fifth of its consumption, and the superior quality of the Grain thence imported, owing not more

Wheat imported from Tasmania.

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perhaps to the difference of Soil and Climate than to the improved Cultivation introduced by the more Skilful Settlers in its Neighbourhood, will probably enable them to enter into still more successful competition with the growers in New South Wales.

Defective methods of agriculture.

95. The System of *Agriculture* pursued in this Colony is by no means of an improved description. Endeavours to renovate or support the powers of the Soil by Rotation of Crops or other artificial means are seldom if ever practised. On the Banks of the Hawkesbury and some other situations, lands are met with which have been cropped for twenty years successively with Wheat and Maize. Care in the Selection and change of Seed is also much neglected. Several varieties of the same Grain are often sown together and consequently the Crop does not ripen evenly. The Causes of so imperfect a System are sufficiently obvious. The greater part of the population, by whom the immediate operations of Agriculture are performed, consist of convicts, whose employment, previously to their arrival, had been quite Foreign to the Cultivation of the Soil, and their Skill in such operations, acquired by Necessity and at an advanced period of Life, is consequently imperfect. Besides the want of a sufficiently remunerating Market for Grain and the high price of labour, in conjunction with the boundless extent of Land suitable for Pasturage without care or culture, and the consequent more advantageous returns of Capital employed in grazing, have attracted the attention of the more opulent and intelligent Settlers from Agriculture as a principal pursuit, leaving the production of Grain chiefly in the hands of Small Farmers, many of whom, having been originally Convicts, possess neither the Skill, Capital nor provident and industrious habits to fit them for introducing or pursuing an improved system, or turning the lands which they possess to the best account.

Causes of imperfect system.

Preference for grazing over agriculture.

96. This preference of grazing to agriculture will probably continue for some time to come. The former is prosecuted with comparatively little expense in labour, and the Market for Wool is unlimited; whereas the Cultivation of Grain is necessarily attended with a great expense in labour, and the returns from the want of an assured Market and the consequent fluctuations of price are subject to much uncertainty. How desirable soever it may at first view appear to direct a greater share of the Capital and intelligence in the Colony from Grazing to Agriculture, I am satisfied that any Measure of the Government, either in the form of land regulations or otherwise, to effect such an object would prove as Nugatory as it would be found impolitic; of lawful pursuits, the one most profitable to the Individual will be

found in most cases the most beneficial to the Public, and so long as the facilities and profits of grazing are superior to those of Agriculture, so long may it be expected the preference of the former will be the most generally advantageous. The present comparative profits between Grazing and Agriculture however must gradually undergo very sensible Modification. The operation of causes, which promise to extend and to give greater Steadiness to the price of Grain, has already been adverted to, and, as these produce their effect, as consumption and the supply of labour increase with the increase of Population, it may be fully expected that the more opulent Settlers will find it their interest to direct more of their attention and Capital to the Cultivation of the Soil, and that those improvements in Agriculture, which have so long been an object of the solicitude of Government, will spontaneously be introduced in the natural course of events.

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Probable improvement in agriculture.

97. Of the Products of the Soil cultivated in the Colony, *Wheat* and *Maize* form by far the greater proportion. The consumption of the former is general by every class of the community, the Free as well as the Convict. The Ordinary Ration allowed by the Settler to the latter is a Peck a Week. Wheat in general Weighs from 56 to 60 Lbs. a Bushel. On the best Lands, forty Bushels per Acre is obtained, but the average Produce is reckoned to be less than 20 Bushels.

Grain cultivated.

Average crops of wheat:

98. Maize succeeds well on good Soils, yielding from 60 to 70 Bushels an Acre. Its price is generally about half that of Wheat, or from 3s. to 4s. a Bushel; but last year, owing to the failure of the Crop, its price has equalled or rather exceeded that of Wheat, having been from 8s. to 10s. a Bushel. Maize is the chief and almost the only Grain used for the food of Horses and Poultry, and for fattening Swine, which, fed on this Grain, produce Pork equal if not Superior to that of any other Country. It is also used as Food by the poorer Class of Settlers, though not generally from choice. The improvident habits of many of this class oblige them to sell their Wheat at almost any price immediately after Harvest to meet engagements, contracted in many instances to gratify their taste for Spirits and other Luxuries, and, when their Wheat is exhausted, Maize from necessity is resorted to as a substitute.

and of maize.

Use of maize.

99. A portion of *Maize Meal* has also within these few years constituted a portion of the regular ration of Convicts in the employment of Government. It forms with Sugar a Nutritive Breakfast, and, tho' at first it is generally disliked, use reconciles it to their taste. Several varieties of Wheat are cultivated, but chiefly the kinds known as Red and White Lammas and

Maize meal issued as rations to convicts.

Varieties of wheat.

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Creeping Wheat. Neglect in changing the seed and in preparing it for sowing occasion smut and other diseases incidental to Grain, which by proper attention in these respects might be prevented.

Oats, barley, peas and rye.

100. The Cultivation of *Oats, Barley, Peas* and *Rye* is inconsiderable, the demand being limited. It is probable the Distilleries may produce a Market for some of these Kinds of Grain, which would naturally lead to their more extensive Cultivation.

Potatoes, vegetables and fruits.

101. *Potatoes* are grown in the lower Districts, chiefly for the Table and of an excellent quality, but little inferior to those of Van Diemen's Land and New Zealand, whence, particularly from the former, considerable quantities are imported. *Culinary Vegetables* of every description succeed well, but the Cultivation has not been attended to so much as might have been expected, the Price being high. The same remark applies to *Fruits* of various kinds, such as Oranges, Peaches, Pears, Apples, etc.

Turnips.

102. *Turnips* have been introduced and, where properly cultivated, thrive well; but they are not raised to any great extent.

English grasses.

103. English *Grasses, Clovers* and *Lucerne* have also been tried and with Success. Profitable Returns have lately been obtained by raising them as Provender for the Supply of Sydney, where last Year from £18 to £20 a ton was usually given for Hay. Apprehensions are entertained that the late Drought will have proved destructive or at least greatly detrimental to this incipient Branch of Rural economy.

Flax and hops.

104. The experiments made in growing *Flax* and *Hops* prove that they can be cultivated with advantage on favorable Soils.

Tobacco and cotton

105. Success in the culture of *Tobacco* is no longer problematical and is fast extending, and it has been found that *Cotton* of a very superior quality may be produced in Situations near the Coast.

Sugar.

106. Sanguine expectations are entertained from the Samples of *Sugar* produced at the Government Plantation at Port Macquarie that, as soon as this Settlement and the Unappropriated Lands to the Northward are opened to Settlers, a Supply of this article sufficient for internal consumption at least may be readily raised within the Colony, and that this, added to the distillation from the Sugar Cane, will afford a profitable means of investing Capital.

Tropical productions.

107. An Experiment to raise *Tropical Productions* is now in the course of being made by two enterprising New Settlers on the Banks of the Manning to the North of Port Stephens; and, if this should succeed, the probability of Still greater success in situations near the Tropics would be placed beyond a doubt. No apprehension need be entertained that such undertakings

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would interfere with the cultivation of the lands suitable for raising Grain. They would on the contrary greatly stimulate and advance Cultivation in those Districts by the impulse of a New and extended Market, which the interchange of commodities would create, independently of their effect in attracting Capital and Emigrants from the Mother Country, consequent on the New and Wider field which would thus be opened for the employment and exertions of both one and the other.

Preference of settlers for grazing.

108. It is not however to Products raised immediately by the Cultivation of the Soil, to which the energies and views of the Settlers have hitherto been chiefly directed. *Grazing,* as has already been remarked, continues the favorite pursuit. The unlimited extent of ungranted Land, the abundance and goodness of the Natural Grasses, and the favorable nature of the Climate for the production of Wool, added to the comparatively higher proportion of labour and expense essential to the cultivation of the Soil, have Naturally attracted a great Majority of the Capital and intelligence in the Colony to Grazing. The exertions to improve the quality of the Wool during last Year have been fully evinced by Several Importations of *Saxon* and *Merino* Sheep, the general eagerness with which these and the offspring of fine Woolled Sheep previously imported have been purchased as well as the superior prices which Sheep of an improved Breed have commanded.

Improvement in quality of wool.

Adaptation of colony for production of fine wool.

109. On the subject of the adaptation of this Colony for producing fine Wool, there is now only one opinion, and the encreased activity of the Spirit of improvement in this pursuit leaves nothing to be desired. The recent introduction of the finest description of Saxon Sheep, both by the "Australian Agricultural Company" and private Individuals, has afforded such gratifying prospects of success as to leave little doubt that the Wool of this Colony will at no distant day rival if not surpass in quality the produce of any other Country in this respect.

Breed of horses and cattle.

110. Almost equal eagerness is manifested for improving the Breed of *Horses* and *Cattle,* particularly the former. In proof of this, it may be remarked that several Horses of high blood have lately been imported, and that the possession of a Serviceable English Horse of known high qualities affords of itself for a certain time a handsome Revenue to the Owner.

Increase in horned cattle.

111. The rapid Multiplication of *Horned Cattle* will probably in a short time Considerably lower their value, particularly of those for the Butcher. This value has been mainly supported by the large quantity of Salt Beef (upwards of 150 Tons annually) required in the last and the present year for the Supply

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of the Commissariat Stores, an Additional Market which has greatly benefitted the Proprietors of Live Stock.

Dairies.

112. Should Butcher's Meat fall in Price, the produce of the *Dairy* will probably be more attended to, for which indeed the present prices *3s. a pound for Butter* and *1s. 3d. for Cheese* hold out ample encouragement.

Probable revival in agriculture.

113. This encrease in the Numbers of *Live Stock* will, in conjunction with other causes which have been adverted to, most probably direct a greater proportion of the Capital, industry and intelligence in the Colony to Agriculture, and consequently lead to the improvement of the Country and the fulfilment of the wishes of His Majesty's Government in this respect.

114. As soon as the Measures now in progress for obtaining a Return of the lands in cultivation have been carried into effect, I hope to be able to render my report on the State of Agriculture more complete and satisfactory.

Education and public works.

115. I have not adverted in this report to the subject of "*Education*" or "*Public Works,*" having very recently written fully on both.

Inability to report on land and population.

116. Nor am I sufficiently prepared at this moment to communicate, as I should wish to do, with respect to "*Land*" and "*Population*" as required by your Circular Letter; But I trust the Measures in progress will enable me to do so ere long. I have not however been inattentive to the important duties, which attach to my situation, or wanting in industry or application to fulfil them. But it would be presumptuous in me to suppose that, in the short period of two years, I have acquired a full knowledge of the various and contending interests, which should be promoted and reconciled, or of the natural means and capabilities of this infant country, which, though rapidly advancing, require time to develope themselves, and cannot without due experience be fully understood.

I have, &c.,

Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch per ship Cape Packet.)

Sydney, 10th April, 1828.

Sir,

Transmission of report on colony.

Being desirous of affording you the fullest information in my power respecting the progress, actual State and Capabilities of this Colony, as far as the short experience, I have had, has enabled me to form a judgment, I have, with this view, bestowed all the attention in my power in preparing the Report, which accompanies the Statistical Tables for the last Year. And I have taken this mode of communicating the Report as the best means

of its receiving your early consideration. I have abstained from entering at length into such of the Heads as I have recently had the honor of reporting specially upon. 1828. 10 April.

I can only offer in excuse for my presuming to intrude on you in this manner that I have ventured to do so from an impression that the Interest you have taken in the Trade and Commerce of the Empire at large will insure this remote Colony, now under your immediate direction, a portion of your attention commensurate with its growing importance. I have, &c., Reasons for report.

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 67, per ship Cape Packet.)

Sir, Government House, 11th April, 1828. 11 April.

I do myself the honor in reference to Earl Bathurst's Despatch No. 55, dated the 4th August, 1826, to transmit, agreeably to the wish of the Reverend Mr. Marsden, the accompanying Letter containing a Statement of his Case, which he has expressed an anxious desire should be brought under your immediate consideration. Transmission of statement by Revd. S. Marsden.

I have, &c.,
RA. DARLING.

[Enclosure.]

REVD. SAMUEL MARSDEN TO RIGHT HON. W. HUSKISSON.

Sir, Parramatta, 3rd April, 1828.

I take the liberty of forwarding to you as His Majesty's Secretary of State for the Colonies a statement of the greatest possible importance to my Character as a Minister of the Church of England, together with certain documents which are well authenticated and which most clearly establish my innocence in a case, wherein I have been condemned unheard, and wherein false and unfounded assertions have been supported by the most false and garbled evidence and have been published to the world as facts. Statement transmitted by Revd. S. Marsden.

I allude to certain charges* of torture and cruelty brought forward against me in the Year 1825, which were examined into privately before the Council, without my having any knowledge of their proceedings or being called upon for my defence further than will appear in the Attorney General's letters of the 10th and 15th September, 1825, marked A and B respectively, to which, with my answers of the 14th and 16th marked C and D and the Attorney General's reply of the 17th marked E, I beg leave to refer you. Charge made *re* conduct as magistrate.

These letters having made a charge against me, I communicated to the Attorney General a complete refutation of the accusation, which refutation I conceived had proved satisfactory

 * Note 43.

1828. 11 April. to him as I heard nothing further from him on the subject; I beg leave to request your particular attention to that communication, which is contained in my letter, dated the 21st September marked F, which I published at the time in one of the public Newspapers.

From this period, I heard no more of the accusation till September 16th, 1826, when the report* of the Council appeared in the Sydney Gazette, as extracted from a return made to the Honorable the House of Commons and printed by their order in April, 1826.

Charges made with reply by Revd. S. Marsden.

The charges so made against me will be seen under title G in the appendix, and my answers and the documents in the support are set forth under title H.

On seeing this publication and from a fear that I should not get justice in this Colony by an appeal to the Supreme Court, where the same individual presided as Judge, who had in his capacity as Member of the Council prejudged me without giving me an opportunity of defending myself, I adopted the only resource I had. I addressed a letter to Wilmot Horton, Esqr., relative to the case of my Servant Jas. Ring on the 24th Septembr., 1825, marked I, and, on the 4th October, 1826, I addressed a respectful memorial to the Right Honorable the Earl Bathurst setting forth the whole of the circumstances, and craving that Justice should be done to me; a Copy of this letter marked J will be seen in the appendix; sometime in December, 1826, I was desired by His Excellency Governor Darling to wait upon him, which I did; when His Excellency shewed me a reprimand† he had been desired by the Right Honorable the Earl Bathurst to convey to me on the subject of these alledged acts of Cruelty, and also Ring's Case. I cannot forward a Copy of that part of His Lordship's letter, as His Excellency did not feel himself at liberty to give it to me, and as His Lordship had stated that he did not wish that reprimand to be made public.

Letter and memorial sent to England.

Reprimand received from earl Bathurst.

To the above mentioned letters, I have received no reply; so that to this hour a stain rests upon my Character, which I flatter myself has been without blemish during the period of 35 years that I have exercised my functions in this Colony as a Minister of the Church of England.

Necessity for refutation of charges.

I owe it to that sacred body, to my friends both here and in England, many of whom are among the most respectable and virtuous of men, and who would never permit their names to be any longer connected with mine whilst such a disgrace attaches itself to me; I owe it to my Family, to society, and myself to seek an opportunity of refuting, by clear legal proofs, those charges, which have been so unfairly, so illegally, and so oppressively and cruelly made and proceeded upon against me.

* Note 44. † Note 45.

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I humbly hope, Sir, that you will enable me to have these charges again investigated; that I may be allowed to answer them; and that the result may, for the vindication of my Character, be made as public as circumstances will admit. Request for investigation.

I cannot hope here to undo the injury that I have received, and shall yet receive from these charges having been made public; but I trust to your sense of Honor and Justice and to the desire you have ever shewn to maintain the principles of the British Constitution, that you will not lend your sanction to my being condemned unheard.

I have, &c.,

SAMUEL MARSDEN.

[Sub-enclosure.]

Court of inquiry *re* charges against H. G. Douglass.

THE following statement contains an account of what took place before the Court of enquiry at Parramatta, New South Wales, on July 14th, 1825, which, by virtue of and in obedience to the following letter, had been appointed to investigate a charge of illegal punishment alledged to have been preferred against Dr. Douglass by the Revd. Samuel Marsden, Senior Chaplain of the Colony.

[*Here followed a copy of the despatch from Earl Bathurst to Sir T. Brisbane, dated 3rd January, 1825; see page 462 et seq., volume XI.*]

Denial by Revd. S. Marsden of authorship of charges.

It is necessary to premise that Mr. Marsden never did send any statement on the subject to Lord Bathurst, nor was he in any manner acquainted with the fact that such a statement had been made. It is probable that Mr. Marsden's name may have been used by some person, but certainly never with his permission or knowledge as being the accuser of Dr. Douglass. Mr. Marsden admits that he might have mentioned the circumstance to a friend in England, but never with the idea of making a charge against Dr. Douglass. As Lord Bathurst directed a reference to be made to Mr. Marsden on the subject "of the alledged fact of Dr. Douglass having directed a Convict to be flogged, with a view of extorting confession from him" these remarks will be confined to what took place in respect to that direction of his Lordship.

Probable authorship.

The following paragraph, which appeared in the Sydney Gazette on the 28th September, 1825, enables one to form a conjecture as to the source whence this accusation originated and the probability of its correctness is very strong when it is known that at that time the Editor of the paper alluded to was in the entire confidence of the Government. "Bradley, who was removed from his situation at the instance of Dr. Douglass became the Doctor's avowed enemy, which induced the said Bradley to make certain representations to England."

Inquiry instituted.

The Court was composed of the Governor Sir Thomas Brisbane, Chief Justice Forbes, and the Venerable Archdeacon Scott. Mr. Marsden was summoned to attend, and he appeared before the Court at the time appointed. The paragraph in Lord Bathurst's Instructions was read, containing the above charge, and Mr. Marsden was called upon to produce the written statement which Lord Bathurst had in his letter said Mr. Marsden had transmitted to England. In reply, Mr. Marsden stated that he was not Dr. Douglass' public accuser nor ever wished to be, and that he had never sent the statement in question to Lord Bathurst, nor to any

Request for statement from Revd. S. Marsden.

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other of His Majesty's Ministers, but that, as Lord Bathurst had involved his name in the question and referred the Court to him for proof, he Mr. Marsden was prepared to establish the charge against Dr. Douglass, lest his Lordship should suppose that he Mr. Marsden shrunk from a fair enquiry, which would prejudice him in his Lordship's opinion. The Court observed that, unless Mr. Marsden produced the statement itself or a copy of it, the Court would not enter upon the investigation. Mr. Marsden assured the Court that it was utterly impossible for him to do this, as that document had never passed through his hands: but the Court still insisted on his producing the statement or a copy.

Statement denied by Revd. S. Marsden.

Mr. Marsden deemed it necessary to write to the Court, in order to shew Lord Bathurst his readiness to comply with his Lordship's instructions as far as it was in his power, and that he was ready to prove the facts contained in that statement, which Mr. Marsden conceived was all that Lord Bathurst wished to ascertain, which will appear from the following correspondence.

Evidence offered by Revd. S. Marsden.

[*Here followed copies of the following letters:—Revd. S. Marsden to court of inquiry, 15th, 16th, 28th, and 30th July, 1825, and F. Stephen to Revd. S. Marsden, 15th, 16th, 29th and 30th July, 1825; see page 798 et seq., volume XI.*]

The evidences, Mr. Marsden had summoned to prove the charge in the case of Henry Bayne and who were ready to be examined, were the Clerk of the Bench who had recorded the Judgment, the Constable who was ordered to see the sentence carried into execution, the Flogger who inflicted the punishment, the Gaoler who daily counted the lashes, and Henry Bayne who had suffered the punishment; the fact was well known and could as easily have been proved as that the Governor was alive, yet Dr. Douglass was acquitted, and by his acquittal Mr. Marsden was condemned as will appear by the following communication in "Howe's Commercial Express."

Witnesses proposed by Revd. S. Marsden.

[*Here followed a letter from J. Ovens to H. G. Douglass (undated), which will be found in the statement* printed and published by Revd. S. Marsden.*]

When this notification appeared in the public papers, doubts were entertained whether the Venerable Archdeacon Scott had approved or not of the acquittal of Dr. Douglass; it had been alledged that the Venerable Archdeacon had not affixed his signature to the acquittal of Dr. Douglass; in consequence of this on the 15th September, the following paragraph appeared in the Sydney Gazette:—

Concurrence of Revd. T. H. Scott in acquittal of H. G. Douglass.

"Our veracity has again been questioned in reference to the signature affixed to the acquittal of Dr. Douglass, it being said that only those of the Governor and Chief Justice were subscribed to this document; but we again iterate and reiterate the fact that the names of the three distinguished Commissioners were affixed to the said acquittal, which were unequivocally favourable, and these three signatures are unaccompanied with any alledged protest."

The Editor then goes on to say:—"Let the charges be ever so complicated and tremendous, still it is clear that the accused has passed through the ordeal allotted to him by Earl Bathurst, and the result has been unequivocally favourable, which terms are nothing more or less than a decided and honorable acquittal."

I would ask, would this have been the case if the Court had allowed Mr. Marsden's witnesses to have been examined on the charge of illegal punishment.

* Note 46.

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Acquittal alleged from want of evidence.

Dr. Douglass was acquitted, not because he was an innocent man, but because there was no evidence on record before the Court upon which they could ground a conviction, which evidence could most easily have been produced to substantiate the facts with which Dr. Douglass had been charged, but because forsooth Mr. Marsden could not produce a paper, which Lord Bathurst had himself informed the Court of Enquiry had been sent to England, and which Mr. Marsden could not therefore have produced, even if he had sent the charge home to Lord Bathurst; the Court refused to investigate the fact, which Lord Bathurst in his letter declared formed the substance of that statement.

This was rejecting the kernel because they could not have the husk. The statement was not a declaration nor an indictment, which must be produced, to shew that the allegations were to be proved; but this was a very convenient mode of getting rid of the enquiry and screening a friend.

Finding of grand jury against H. G. Douglass.

The Grand Jury shortly afterwards at the quarter Sessions, both at Sydney and Parramatta, found true Bills* against Dr. Douglass for punishing Henry Bayne to extort confession. Surely these presentments were no proof of his innocence, nor was the refusal of the Court of Enquiry to hear any evidence against him any proof of his innocence.

Libels published against Revd. S. Marsden.

On the appointment of Dr. Douglass to the situation of Clerk of the Council as noticed before, almost daily, libellous annonymous letters were addressed to Lord Bathurst by the friends of Dr. Douglass through the medium of the Sydney Gazette, and to cast unmerited odium and disgrace upon Mr. Marsden. More false, malicious and scandalous libels could not have been published. Thus have approbrium and disgrace been heaped upon Mr. Marsden, and he has been set up as a mark to be aimed at by every low fellow who wished to please Dr. Douglass, and to obtain favours from the Governor Sir Thomas Brisbane, with whom and Mr. Forbes the Chief Justice, he seemed always to have considerable influence.

General criticism by Revd. S. Marsden.

Could Mr. Marsden be blamed for feeling shocked at the report of the Gaoler at Parramatta, on one of his professional visits at the Gaol, that "he was afraid Bayne would die for his back was rotten"? Was it not natural in writing to a friend in England who would wish to know the state of things here to mention this? And is it just towards Mr. Marsden that he should have been, for so doing, represented and brought forward as a public accuser and made to incur the odium of such a situation? Ought he not to have been protected by the Government, if there was proved to be some foundation for the charges? And that there was this foundation, the finding of the Grand Jury and the uncontradicted statements in Mr. Marsden's letter fully shew. Should the Governor have proclaimed that the result of the Court of Enquiry was favourable? Was the Government authorised in its official paper stating that Dr. Douglass was honourably acquitted? What must the world have thought of Mr. Marsden? What they did think is obvious; for Mr. Marsden received from Lord Bathurst a reprimand as being the disturber of the public peace, etc. Mr. Marsden regrets that he cannot publish this reprimand as it was conveyed through the present Governor by order of Lord Bathurst, and no copy was allowed to be taken. But that this reprimand had been conveyed was soon circulated through the country by Dr. Douglass or his friends, as it was noticed by the Editor of the Sydney Gazette. It

* Note 47.

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may be asked whether Dr. Douglass was acquitted by the Petit Jury on the trial of those bills, which had been preferred against him. What will the world say when it is informed that a bill of indemnity* was introduced into and passed the Council to screen Dr. Douglass from the effects of those sentences? Dr. Douglass was the Clerk of the Council. But this was not half the mischief produced by that measure. Mr. Marsden and some other Magistrates by way of retaliation were charged by Dr. Douglass with similar acts of cruelty. Mr. Marsden had not called for useless documents, which he knew could not be produced, before he should be called upon for his defence, far less to prevent any charge being made against him, he had courted enquiry, he had requested a public trial. In the case of Downs and Carroll, a charge of torture was preferred to the Grand Jury by Dr. Douglass against Mr. Marsden, but it was thrown out as there was no evidence to support it. Yet, just at that time, this bill of indemnity is introduced to screen Dr. Douglass, Mr. Marsden and one or two other Magistrates who are there named. This was a masterpiece of insidousness! ! But what is the result? Hear it and wonder; Dr. Douglass is declared to be honourably acquitted and is rewarded with a place of £800 per annum as Clerk of the Council. Mr. Marsden has charges made against him secretly before the Council; he is not allowed to defend himself; but the report of the Council is sent home to Lord Bathurst and published by order of the House of Commons.† By this report for the first time Mr. Marsden is made acquainted of what he has been accused. How the charges were supported, that most of them were fabrications and forgeries of Records which Records contradict the charges, and that in no one case has Mr. Marsden acted illegally as he could most clearly prove; and yet he has been condemned on these charges as if they had been proved! ! He has at last furnished the Right Honble. the Secretary of State the whole evidence in refutation of the accusation, and he doubts not that justice will be done him. Mr. Marsden cannot have the injury, which has been done to his feelings and to his character wholly repaired; but, for the sake of his situation as the Principal Chaplain of the Colony, and as a Minister of thirty five years standing, as a Father, and as a man of unblemished character, he hopes that the stain will be from this time removed; That Justice and only Justice may be done him. That he may have the rights of a British Subject to be heard before he is condemned. And may this case have the happy effect of preventing the appointment of Courts of Enquiry or at least of shewing the necessity of refusing to publish the results unless the Party accused shall have had the opportunity of defending himself.

Alleged retaliation by H. G. Douglass.

Bill of indemnity passed.

Alleged secret charges against Revd. S. Marsden.

Denial of charges.

Petition for justice.

[*Here were appended the following documents*:—

[A and B] S. Bannister to S. Marsden, 10th and 15th September, 1825.

[C and D] S. Marsden to S. Bannister, 14th and 16th September, 1825.

[E] S. Bannister to S. Marsden, 17th September, 1825.

[F] S. Marsden to Editors of "Australian," 21st September, 1825; Ext. Marriage Register (St. Michael's), 27th June, 1822; Cert. of J. and A. Cross, 19th September, 1825; Cert. of W. Cox, 19th September, 1825.

Copies of these will be found in the statement‡ printed and published by Revd. S. Marsden.]

* Note 48. † Note 49. ‡ Note 46.

[G]

1828. 11 April.

[This consisted of the last paragraph on page 855 and the first paragraph on page 856 of the report of the inquiry by council in volume XI; also the reports of the trials of R. Parsons, Henry Smith, John Quigley and H. Smith, T. Ford, J. Blackburn, J. Downs and H. Carroll, and W. Earles; see page 871 et seq., volume XI.]

[H]

Reasoning adopted by committee of inquiry.

This is a very novel way of reasoning that because I was present on the 5th I must have been present on the 6th. It may convince those who were determined to be convinced and will serve to the feelings of my accusers. As the case occurred so long ago as April, 1815, it is impossible that I should have any very clear recollection of the circumstances, particularly as several hundred cases were brought before me every year.

Criticism of evidence available by Revd. S. Marsden.

From the recollection however of my general feelings and my knowledge of and mode of conducting my Magisterial Duties, I can safely venture to assert that there was nothing in that case in which I acted at all illegally. I cannot say where I was on the 5th; but, as my name was not mentioned, an omission of which was not likely to have been made, as I was at the time the Principal Magistrate in the neighbourhood, and as there was but one other Magistrate, my presence there would not have been overlooked nor my signature be dispensed with particularly as the coming in of a second Magistrate gave the Court a much greater weight and authority. I might or might not have been there on the 5th; but, if I were, I am confident no such sentence was either passed or sanctioned by me.

As to the mention of my name at the Head of the Extract, it was no difficult matter to get that interlined. I can therefore only argue on the Case as it appears, merely observing that at that early period of the Colony Records were not so much attended to as they are at this time, and that the Clerk has evidently mixed up two charges and sentences together.

It appears that there were two charges made against Parsons, one for robbing John Tarleton "the other" for a deficiency of his Government Weekly labor. "For the first he was sentenced to receive 25 Lashes," and restore the remainder of the stolen property being found upon him. The latter part of the sentence was nugatory as there was no penalty attached in case of neglect to restore it; but these observations or orders of Magistrates have the effect often of getting the party to return the property, which otherwise might be a serious loss to the owner. It is known that the Police Magistrates in England make extrajudicial remark to answer the ends of justice and which can do no harm.

The second sentence was "every Saturday to compleat his Govern't. Work" for that week, and also to make up the deficiency of his Government labour out of his own time, viz't., every Saturday. He had been proved on the testimony of the Overseer of the Sawyers of whom Parsons was one to have been deficient in the quantum of labor required of him for Government.

1816, June 29th:—Henry Smith, Convict.

Nature of offence.—Charged by John Palmer, Esqr., with making away with a valuable Gold watch, worth £30 Stg.; entrusted to him to repair as a Watch maker; Also with making away with four other watches given to him for the same purpose.

1828. 11 April.

The Prisoner says in his defence that he was robbed of them on the Sydney Road.

Punishment.—Sentenced to receive 50 lashes.

Certified to be a true Extract from the return lodged in this Office, Colonial Secretary's Office, Sydney, N.S.W., 27th March, 1828. ALEXANDER McLEAY,

Secretary and Registrar of Records for the Colony of N.S.W.

Criticism of evidence available by Revd. S. Marsden.

This Case seems to have been very superficially examined before the Court or they would have hesitated in making it the condition of a charge against me. The Council in their Report state the variance between the Record and Smith's private statement as to the 400 Lashes, and also shew that what he stated about being sent to Newcastle was false. Which was entitled to most credit, a Record or the statement of a felon privately examined and wishing to criminate the Magistrate that had sentenced him? He is, as appears by the Record, sentenced to receive 50 Lashes; he does receive 50 lashes and no more; if he had been sentenced to receive 400, how comes it that he received no more than 50, and that reliance should have been placed in this statement when immediately after they detect him in a gross falsehood on the same subject.

1822, March 16th. Present:—Hannibal Macarthur, John Palmer, William Howe, Esquires, and Revd. Saml. Marsden.

Thomas Ford (Bond) per Ship John Barry.

Natnre of Offence.—Charged with absenting himself from his Gang being found with a false Certificate or Pass.

Sentence.—Ordered to be worked in the Gaol Gang 2 months on half ration.

Remarks.—belonging to Rose's Gang.

Certified to be a true Extract from the Return lodged in this Office, Colonial Secretary's Office, Sydney, N.S.W., 27th March, 1828. ALEXANDER McLEAY,

Secretary and Registrar of Records for the Colony of New South Wales.

I consider the Judgement passed in this case to be legal, the offence and sentence were both specific. It is always considered a serious crime to forge a Certificate of Freedom or a Pass. By forged Tickets of Freedom, felons sometimes make their escape from the Colony. This crime the Executive authority have at all times deemed it necessary to punish. It is an offence attended with many serious consequences, particularly to Settlers in the Interior. Convicts, who pass through the country with forged Certificates of freedom, generally live by robbery; and, if resistence is made to their lawless depredations, the unprotected Emigrant is often put in bodily fear, Stripped of his property or murdered.

Blackburn's case.—This is a compleat Forgery. As to this case I can most expressly take upon me to declare, with as much sincerity and truth as if I were on my oath, that it is a charge totally without foundation; that James Blackburn was never brought before me as a Magistrate on any charge whatsoever, nor is there any record of his punishment in the proceedings of the Bench at Parramatta. This is supported by the following Certificate.

[*Here followed a certificate by E. Lockyer, printed in the statement* published by Revd. S. Marsden, and the trial of J. Downs and H. Carroll; see page 875, volume XI.*]

* Note 46.

My answer to this case is to be found in my letter of the 21st September, 1825, which is supported by the several Documents following. 1828. 11 April.

[*Here followed a letter from A. McLeay to Revd. S. Marsden, dated 26th March, 1828, printed in the published statement.*]

Criticism of evidence available by Revd. S. Marsden.

To this case my name also is forged as far as I am concerned, and shews how little pains were taken to sift the evidences of the cases brought against me. The following extract of the Record as certified will shew that I was not on the Bench when Earles was tried, and I do solemnly declare I had nothing to do with the case as a Magistrate.

[*Here followed the trial of W. Earles; see page 876, volume XI.*]

[I] Revd. S. Marsden to Under Secretary Horton, 24th September, 1825.

[J] Revd. S. Marsden to Earl Bathurst, 4th October, 1826.

[*These letters have been omitted, being principally repetitions of statements in other letters and documents.*]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 68, per ship Cape Packet.)

Sir, Government House, 14th April, 1828. 14 April.

I do myself the honor to report to you that I have nominated, until His Majesty's pleasure shall be known, Alexander Berry, Esqr., to be a Member of the Legislative Council in the room of the late Mr. Throsby, whose Death was Notified in my Despatch Marked "Separate" dated 5th Inst. Nomination of A. Berry as member of legislative council.

Mr. Berry is a considerable landed Proprietor and the head of a Mercantile House under the Firm of "Berry and Wollstonecraft," which is closing its concerns, the Partners intending to confine themselves to the cultivation of their land* and the improvement of their Flocks and Herds. I have only to add that Mr. Berry is a well informed Man of Sound principles and a Most respectable character.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 69, per ship Cape Packet; acknowledged by Sir George Murray, 26th November, 1828.)

Sir, Government House, 15th April, 1828. 15 April.

I have the honor to transmit for your information the accompanying Copy of a Precis explanatory of the circumstances of a claim of Mr. Lord's on the local Government on Account of a Piece of Ground,† which he relinquished in "Macquarie Place" at the desire of Governor Macquarie, in order to its being converted into a Place of Recreation for the Public, in lieu of which he received a Waterside Allotment in Sydney Cove, which he was afterwards under the necessity of also giving up, it being required for Public purposes; As likewise his Claim for taking Claim of S. Lord for land resumed for public purposes.

* Note 50. † Note 51.

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down his dwelling House, Offiees and an extensive Warehouse whieh he had ereeted in Maequarie Plaee.

Submission of claim to arbitration.

The question having been suffered to lay over for a period of Seventeen Years, and Mr. Lord's demands on the Government having enereased eonsiderably from the delay whieh had taken plaee in adjusting them, I eonsidered it of importanee to prevent any further addition to them, and therefore judged it best to submit the matter to arbitration as had been proposed by Sir Thomas Brisbane in the Surveyor General's letter to Mr. Lord, dated the 2d of Mareh, 1825.

Award by arbitrators.

The result as appears by the Preeis was that Mr. Lord should reeeive the Sum of £6,562 10s. on Aeeount of the Buildings and land in question. The Attorney and Solieitor General were then eonsulted, as they had been from the Commeneement, and, having given their Opinion that the payment eould not be legally resisted, it remained only to effeet it on terms the most eonvenient to the Government. Mr. Lord, who is mueh embarrassed, stated that a less sum than £4,000 in Cash would not answer the demands of his Creditors, whieh he had entered into Bond immediately to satisfy; but, after some Negociation, he was induced to reeeive £3,000 in Money and the Balanee being £3,562 10s. in land at the Rate of 4s. per Aere, to be taken in lots of not less than three Square Miles or 1,920 Aeres, free of Quit Rent, the same as if purehased.

Payment in cash and land.

Request for approval.

These Sir are the terms on whieh Mr. Lord's elaims have been disposed of, and I have now only to express my hope that you will approve, under the eireumstanees of the Case, of my having aeted on this oeeasion without waiting for Instruetions. Had the Matter been referred Home an additional Expense of at least *£600* would have been incurred, as Mr. Lord apprised me he should expect the usual Colonial Interest, whieh is from 8 to 10 per Cent., until the Debt was discharged. Besides whieh, the referenee would have answered no purpose, as the Crown lawyers assured me the sum awarded must ultimately be paid.

Land refused at five shillings *per* acre.

It may be proper to observe that I endeavoured to agree for the transfer of the land at 5s. per Acre, but Mr. Lord positively refused to reeeive it at that rate, urging that the land in this Case would be reeeived in lieu of Money to which he had an immediate elaim; whereas purehasers under ordinary eireumstances were allowed a period of two years to make their payments, and were therefore better enabled to pay a larger Sum. I have besides reason to think from some late diseussions whieh have taken place, that 5s. per Aere is considered, except for very ehoiee spots, an exorbitant Valuation. I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

1828.
15 April.

PRECIS.

CLAIM by Simeon Lord on Account of an Allotment in Macquarie Place.

IN compliance with a Public Notice, requiring all claims against the Government to be presented by 1st September, 1825, Mr. Lord gave in a Statement on 31st August of that Year, in which is included a claim purporting to be:—

Statement of claim by S. Lord.

"Agreeably to the Late Governor (Macquarie's) Agreement with him for a Grant of a piece of Land* in Macquarie Place, immediately adjoining the spot on which the Governor's Wharf formerly stood, in exchange for which, at the particular desire of the Late Governor, he surrendered to Government a large piece of Land on which his House, Warehouses, Offices, etc., formerly stood, and which is now fenced in and forms a part of Macquarie Place"; also "a claim of £2,000 or its equivalent in Land, that Sum being the Value of the Buildings, which nearly fourteen Years before the expiration of the Lease, he pulled down, and removed from the Land last above mentioned, and for which he never received any Remuneration whatever"; and further "for the loss he sustained, by having been, for near the five Years previous, prevented from Building, or otherwise improving upon the Land near the Old Wharf."

The progress of the transactions alluded to appears to have been this.

Land surrendered by S. Lord at Macquarie-place.

A considerable time ago Mr. Lord held a Lease of certain Premises in Macquarie Place, which, in the Year 1811, it was found necessary to resume, in order to reduce that Piece of ground to its present regular shape. For this, there appears to have been no agreement for any definite compensation at the time, Mr. Lord relying upon the terms on which he stood with the Governor, and contenting himself with the promise of a certain Piece of Ground adjoining the Governor's Wharf. But, on 14th February, 1822, Governor Macquarie having relinquished the Government on 1st December previous, and being then on the eve of quitting the Colony, Mr. James Meehan, the Assistant Surveyor, submitted, at Mr. Lord's request, the propriety of furnishing him with some Certificate to enable him to retain possession of the Piece of Ground, of which "His Excelleney had put him in possession, being the only remuneration given him, on pulling down his Dwelling House and Offices, with a large Warehouse."

* Note 51.

1828. 15 April. Governor Macquarie accordingly wrote on board Ship the Certificate of which the following is a Copy:—

Certificate given by L. Macquarie. "I do hereby Certify that Simeon Lord, Esqr., is strictly and justly entitled to a Grant of the Allotment of Ground in Macquarie Place alluded to in the foregoing Letter (Mr. Meehan's), he having at my particular request relinquished to Government a Lease of Premises held by him of a Valuable allotment of Ground in the said Macquarie Place, and for which I promised him a Grant of the piece of Ground immediately adjoining the Governor's Wharf in Macquarie Place."

L. MACQUARIE,
Late Governor of New South Wales.

Ship Surry, Port Jackson, 15th February, 1822.

Second allotment surrendered by S. Lord. The Allotment here alluded to (adjoining the Governor's Wharf) being required for Public Purposes, as well as the one in lieu of which it had been promised, notice to that effect was given by Mr. Oxley, the Surveyor General, and, on the 23rd September, 1822, Mr. Lord consented to surrender his claim on receiving an Equivalent.

Proposals to submit claim to arbitration. No further steps seem to have been taken until 4th June, 1824, when, in consequence of Mr. Lord's repeated Solicitations, an offer was made by Major Ovens, then Private Secretary, that, to fix the Value of the Allotment in question, two Persons should be mutually chosen with power to call in a third in case of disagreement, and that the Value so fixed should be paid in Land at its common Price in the Colony.

On 2nd March, 1825, Mr. Oxley again made the offer of submitting the Value of the allotment adjoining the Governor's Wharf to Arbitration, as the proceeding best calculated to obtain for Mr. Lord its utmost value, "without needless reference to the circumstances under which he became possessed of it."

Reasons for refusal by S. Lord. These several offers, Mr. Lord appears to have declined in consequence of their not embracing the question of the Compensation due to him for the *Buildings* he had pulled down, in addition to the Value of the *Land* on which *they* stood.

Claims submitted to arbitration. On 31st August, 1825, as above stated, Mr. Lord renewed his application for a Settlement of his claims, and again on 14th December, 1826, in consequence of which a negotiation was entered into with that view, and, on 11th June, 1827, it was at length agreed on the part of the Government to refer to arbitration "all matters relating to Land which were then in dispute and unsettled between the Government and Mr. Lord."

Various delays having taken place with respect to the Persons to be appointed Arbitrators and other matters, reference was made to the Attorney General for his opinion, and Mr. Lord

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having renewed his Solicitations for an adjustment, stating his Claim at between eleven thousand and sixteen thousand Pounds, Bonds were executed on 5th November, 1827, upon the recommendation of the Attorney General, and Messrs. Richard Jones and George Bunn, two respectable Merchants and Magistrates, appointed on the part of the Government, and Messrs. Thomas Raine and John McQueen also Merchants on the part of Mr. Lord. But unavoidable delay having occurred, chiefly owing to the bad health and absence from Sydney of Mr. Bunn, the time originally fixed was extended, and at last the matter was finally referred on 18th January, 1828, to Mr. Jones on the one part and Mr. McQueen on the other.

Appointment of arbitrators.

The Arbitrators last named, after having extended by mutual consent the time originally fixed, delivered their Award, dated 2nd February, 1828, to the following effect, vizt.:—

Award given by arbitrators.

1. That, on 2nd April, 1828, the Government should pay Mr. Lord the Sum of Six thousand five hundred and sixty two Pounds, ten Shillings Sterling.
2. That the Government should pay the said Arbitrators the Sum of Twenty Seven Pounds for their loss of time, etc.
3. That all other Expences should be paid by the Parties incurring the same.

Payment to be made in cash and land.

In payment of the above Sum of Six thousand, five hundred and Sixty two Pounds, ten Shillings, it was further agreed on 18th April, 1828:—

1. That Mr. Lord should receive immediately the Sum of Three thousand Pounds, in Cash, from the Colonial Treasury.
2. That, for the remaining three thousand, five hundred and sixty two Pounds, ten Shillings, he should receive Land Valued at Four Shillings an Acre, or Seventeen thousand, eight hundred and thirteen Acres in all.
3. That the said Lands should be selected and notified to the Surveyor General by 1st May, 1829, or the portion not then selected be forfeited; that they should be taken within the Boundaries now open to the Public generally, in Lots of not less than Nineteen hundred and twenty acres each, Measured according to the Regulations, and subject to the usual Reservations respecting Roads and Bridges and Materials for the same, but only to a Pepper Corn Quit Rent.

Mr. Lord, having signed on 1st May, 1828, the Acquittance drawn up by the Solicitor General, received the Warrant No. 68,

1828. 15 April. dated 21st April for the Sum of Three thousand Pounds, and authority to select the Land agreeably to the conditions above mentioned.

[Enclosure No. 2.]

SURVEYOR-GENERAL OXLEY TO MR. S. LORD.

Sir, Surveyor General's Office, 2nd March, 1825.

Proposal to submit resumption of land to arbitration.

I duly submitted your Letter of the 12th Ultimo to His Excellency, relative to the Allotment of Land in Macquarie Place, and I am directed to inform you that it will be impossible for His Excellency to accede to the Terms, proposed by you in your Letter of 8th June last, and referred to in your Letter of 12th February; but, considering that a great Public Improvement is contemplated in the extension of the Public Wharfs and Landing Place, which would render the possession of the Land given you by Governor Macquarie as matter of much importance to the Government on account of the Public Interests and convenience involved therein, His Excellency has commanded me to inform you that the only principle, on which the Land is sought for by the Crown, is by Purchase or Exchange at a fair and liberal Valuation by two Persons, one to be named by His Excellency and the other by you, these two Persons previously agreeing upon an Umpire; and His Excellency hopes that you will see no reasonable objection to consent to adopt the course of proceeding now proposed to you, as one every way calculated to obtain for you the utmost Value of the Land in Question without needless reference to the circumstances under which you became possessed of it.

I have, &c.,

JOHN OXLEY, Survr. General.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 70, per ship Cape Packet.]

16 April. Sir, Government House, 16th April, 1828.

Landing waiter appointed at Newcastle.

I do myself the honor to report that it has become necessary, from the encrease of the Coast Trade occasioned by the numerous Settlers established on Hunter's River, to place a landing Waiter as a Branch of the Customs Department at Newcastle. It is understood that the employment of small craft for the above purpose and bringing coals to Sydney has led to smuggling to some extent, which there was no other means of checking than by the Appointment of a Competent Officer on the Spot.

J. R. Moore nominated.

I beg to state that I have nominated Mr. John Rush Moore to Act in the Situation above alluded to, Landing Waiter at

Newcastle, at a Salary of £250, being the same as the Officers of that Class receive in Sydney, until a person shall be sent from Home to fill the Appointment. 1828. 16 April.

I have, &c.,

RA. DARLING.

P.S.—Having since closing this communication found a Return in my Office which I had occasion to call for some time since, shewing the Number of Vessels which had arrived at and sailed from New Castle during the four Months ended the 30th of October last, I do myself the honor to forward for your information a Copy of the Return alluded to, which may prove so far useful as shewing the expediency of the Appointment recommended. Transmission of return.

R.D.

[Enclosure.]

RETURN specifying the Names and descriptions of Vessels, which have arrived at and sailed from the Port of Newcastle, between the 20th of June and 20th October, 1827, inclusively; also setting forth generally their Cargoes, whether Coals or Merchandise. Return of shipping at Newcastle.

General Number.	No. in each Month.	Description of Vessels.	Name of Vessels.	Date of Arrival.	Cargo Imported.	Date of Sailing.	Cargo Exported.
1	..	Schooner...	Alligator ..	June 21	Stores.	June 22	Coals.
2	...	Sloop	Hawkesbury. .	,, 21	Merchandize ..	,, 23	do.
3	...	,, ...	Fly	,, 21	,, ..	July 1	Merchandize.
4	...	Cutter	Ld. Liverpool.	,, 24	,, ...	June 26	Coals and do.
5	...	Sloop	Elizabeth	,, 27	,, ...	,, 29	Coals.
6	...	,, ...	Hawkesbury. .	,, 30	,, ...	July 14	Merchandize.
7	...	Schooner. .	Gurnett. , ...	,, 30	Ballast	,, 2	Coals.
8	8	Cutter	Ld. Liverpool	,, 30	Merchandize ..	,, 5	do and Merchandize.
1	...	Sloop	Amelia	July 3	Ballast	,, 4	Coals.
2	...	,, ...	Elizabeth	,, 7	Merchandize ..	,, 14	do.
3	...	,, ...	Fly	,, 8	,, . .	,, 26	Merchandize.
4	...	Cutter	Ld. Liverpool.	,, 8	,, ...	,, 11	do and Coals.
5	...	Schooner..	Gurnett	,, 9	On her way from Port Stephens to Sydney.		
6	...	Sloop	Charlotte ...	,, 17	Merchandize ..	Aug. 2	Merchandize.
7	...	,, ...	Elizabeth	,, 19	,, ..	July 23	Coals.
8	...	Brig	Hawkes	,, 22	Ballast	,, 26	do.
9	...	Sloop	Hawkesbury.	,, 23	Merchandize ..	Augst. .	Merchandize.
10	...	Cutter	Ld. Liverpool.	,, 24	,, ..	July 20	do and Coals.
11	...	Sloop	Amelia	,, 26	Ballast	,, 28	Coals.
12	...	,, ...	Adventure ..	,, 27	,, ...	,, 28	do.
13	13	Cutter	Ld. Liverpool.	,, 30	Merchandize ..	,, 31	do and Merchandize.
1	...	Sloop	Elizabeth . .	Aug. 1	,, . .	Aug. 2	Coals.
2	...	,, ...	Currency Ld.	,, 1	,, ...	,, 9	do.
3	...	,, . .	Fly	,, 4	,, ..	,, 17	Merchandize.
4	.	Schooner..	Prince	,, 4	,, ..	,, 20	do.
5	..	Cutter ..	Ld. Liverpool.	,, 5	,, ..	,, 7	do and Coals.
6	...	Schooner.	Adventure . .	,, 5	Ballast	,, 6	Coals.
7	.	Sloop	Amelia	,, 5	,, ...	,, 6	do.
8	..	,, ...	Elizabeth . . .	,, 11	,, ...	,, 14	do.
9	..	Cutter .. .	Ld. Liverpool.	,, 13	Merchandize ..	,, 11	Merchandize.
10	..	Sloop	Amelia .	,, 15	Ballast. .	,, 17	Coals.

1828.
16 April.

Return of shipping at Newcastle.

[Enclosure]—*continued.*

RETURN specifying the Names and descriptions of Vessels—*ctd.*

General Number.	No. in each Month.	Description of Vessels.	Name of Vessels.	Date of Arrival.	Cargo Imported.	Date of Sailing.	Cargo Exported.
11	...	Sloop	Currency Lad.	Aug. 16	Ballast	Aug. 18	Coals.
12	...	Brig	Hawkes	,, 16	,, ...	,, 18	do.
13	...	Sloop	Hawkesbury...	,, 17	Merchandize..	Sept. 1	Merchandise.
14	...	,, ...	Northum'd.....	,, 19	,, ...	,, 2	do.
15	...	Cutter	Ld. Liverpool.	,, 19	,, ...	Aug. 22	do and Coals.
16	...	Sloop	Elizabeth	,, 21	,, ...	,, 22	Coals.
17	...	,, ...	Charlotte	,, 21	,, ...	Sept. 6	Merchandize.
18	...	,, ...	Amelia	,, 23	Ballast	Aug. 24	Coals.
19	...	,, ...	Currency Lad.	,, 26	,, ...	,, 27	do.
20	...	Schooner...	Adventure ...	,, 26	,, ...	,, 28	do.
21	...	Cutter	Ld. Liverpool.	,, 27	Merchandize ..	Sept. 4	Merchandize.
22	...	Sloop	Fly	,, 28	,, ...	,, 21	do.
23	...	,, ...	Currency Lad.	,, 30	Ballast	,, 2	Coals.
24	24	,, ...	Elizabeth	,, 31	,, ...	,, 2	do.
1	...	Schooner...	Adventure ...	Sept. 4	,, ...	,, 5	do.
2	...	Sloop	Amelia	,, 5	,, ...	,, 5	do.
3	...	Cutter	Ld. Liverpool.	,, 9	Merchandize ..	,, 11	do and Merchandize.
4	...	Schooner...	Adventure ...	,, 13	Ballast	,, 14	Coals.
5	...	Sloop	Currency Lad.	,, 14	,, ...	,, 17	do.
6	...	,, ...	Amelia	,, 14	,, ...	,, 17	do.
7	...	Cutter	Ld. Liverpool.	,, 16	Merchandize ..	,, 18	do and Merchandize.
8	...	Brig	Govr. Phillip..	,, 19	Troops	,, 21	Troops.
9	...	Sloop	Hawkesbury...	,, 19	Merchandize ..	Oct. 14	Merchandize.
10	...	Schooner...	Adventure ...	,, 20	Ballast	Sept. 21	Coals.
11	...	Cutter	Ld. Liverpool.	,, 23	Merchandize ..	,, 25	do and Merchandize.
12	...	Sloop	Ann.....	,, 24	,, ...	Oct. 11	Merchandize.
13	...	,, ...	Amelia	,, 24	,, ...	,, 1	Coals.
14	...	,, ...	Elizabeth	,, 26	Ballast	Sept. 27	do.
15	...	Cutter	Ld. Liverpool.	,, 30	Merchandize ..	Oct. 4	do and Mer'ze.
16	16	Schooner...	Adventure ...	,, 30	Ballast	,, 2	Coals.
1	...	Sloop	Sally	Oct. 1	,, ...	,, 2	do.
2	...	,, ...	Elizabeth	,, 4	Merchandize ..	,, 9	do.
3	...	,, ...	Brisbane	,, 9	Ballast	,, 10	do.
4	...	,, ...	Salley	,, 9	,, ...	,, 10	do.
5	...	,, ...	Amelia	,, 13	Merchandize ..	,, 15	do.
6	...	Schooner...	Adventure ...	,, 13	Ballast	,, 15	do.
7	...	Sloop	Brisbane	,, 16	,, ...	,, 18	do.
8	...	,, ...	Elizabeth	,, 16	,, ...	.....	Laid up.
9	...	Cutter	Ld. Liverpool.	,, 17	Merchandize ..	Oct. 18	Coals and Merchandize.
10	10	Sloop	Fly	,, 17	,, ...	.....	Up the River.
	71	Total Number of Vessels arrived.					

Commandant's Office, Newcastle, 22nd October, 1827.

SAMUEL WRIGHT, J.P.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.

(Despatch No. 20, per ship Countess of Harcourt; acknowledged by Governor Darling, 18th November, 1828.)

26 April.

Downing Street, 26 April, 1828.

Sir,

With reference to my Letter* of the 1st December, 1826, I am directed by Mr. Secretary Huskisson* to inform you that an application has lately been made to this Department by Sir

* Note 52.

Thomas Brisbane relative to the payment, which he was to receive from the Colonial Government of New South Wales, for certain Astronomical Instruments which had been purchased from him for the use of the Colony. It is scarcely to be expected that any Communication on the subject should have been received from you in the time which has elapsed since the transmission of that Dispatch; but I am directed to request that, in the event of your not having already taken any steps upon the subject, you will give directions for the final arrangement of the payment in question.

1828. 26 April.

Payment to Sir T. Brisbane for astronomical instruments.

I have, &c.,
W. Huskisson.

Right Hon. W. Huskisson to Governor Darling.
(Despatch No. 21. per ship Countess of Harcourt.)

Sir, Downing Street, 27 April, 1828.

27 April.

I have reeeived and have laid before the King your Dispatch, dated the 6th November last, with which you have transmitted to me Five Conditional Pardons for His Majesty's Approbation and allowance, in conformity with the Statute in the 4th Year of His Majesty's Reign, Cap. 96, Sec. 35.

Approval of pardons granted.

The names of the Persons, in favor of whom these Pardons have been granted, are enumerated in the Margin.

I have received His Majesty's Command to signify to you that, in pursuance of the before-mentioned Statute, and in exercise of the authority thereby vested in him, His Majesty is graciously pleased to approve and allow the Five Conditional Pardons transmitted with your before-mentioned Dispatch, and that the same are approved and allowed accordingly.

I have, &e.,
W. Huskisson.

Right Hon. W. Huskisson to Governor Darling.
(Despatch No. 22, per ship Countess of Harcourt.)

Sir, Downing Street, 28 April, 1828.

28 April.

I have received your Dispatch of the 7th of August last, in which you request the Sanction of His Majesty's Government to your issuing to Mr. Kinghorne a Salary at the rate of £800 a year, during the short time he acted as Civil Engineer, as likewise a remuneration to Captain Dumaresq of 20s. per day, that Officer having continued to act in consequence of the Person before alluded to having proved inadequate to the duty. In reply, I have the honor to acquaint you that I shall not object to the payment of the Sum in question to Mr. Kinghorne during the time he held this employment, provided the claim of Captain

Payment of salary to civil engineer.

1828. 28 April. Payment of salary to civil engineer.

Dumaresq for the allowance of 20s. a day shall include no part of the time for which you recommend that Mr. Kinghorne should be paid, as I do not think that the latter can reasonably expect to receive the full amount of such allowance, whilst another Officer has been obliged to discharge a part of his duty. You will, therefore, in such case make a proportionate deduction from Mr. Kinghorne's Salary for the purpose of remunerating Captain Dumaresq at the rate which you have proposed; and you will continue to issue the same allowance to him so long as he shall discharge the duty in question.

I take this opportunity of acquainting you that an Officer will be sent out to the Colony to take charge of this Department, so soon as one can be selected, possessing all the requisite qualifications, whom I can, with confidence, place in that appointment.

I have, &c.,

W. Huskisson.

Right Hon. W. Huskisson to Governor Darling.

(Despatch No. 23, per ship Countess of Harcourt.)

29 April. Approval of refusal to complete R.C. chapel;

Sir, Downing Street, 29 April, 1828.

I have the honor of acquainting you, with reference to your Letter of the 13th of August last addressed to my Under Secretary, that I fully approve, under the circumstances detailed in that Communication, of your having declined to authorize the completion of the Roman Catholic Chapel, as it does not appear to have been the intention of the late Secretary of State, when he addressed to Sir Thomas Brisbane his Dispatch No. 41 of the 20th June, 1825, that any expense should have been incurred on their account beyond the mere covering in of the Building; nor do I consider that the Government would have even consented to bear that expense, had there appeared any prospect that the Roman Catholic Inhabitants would, of themselves, have been able to complete it.

and of temporary accommodation granted by archdeacon.

Notwithstanding the amount of the Estimate, I trust that by their exertions this object will be ultimately effected. In the mean time, the Archdeacon's Conduct, in affording to the Roman Catholics the means of attending Divine Worship by the temporary appropriation to the use of the Communicants of a part of one* of the Public School Houses, is highly creditable to him. Nothing can tend more to prevent the seeds of Religious animosity from taking root in New South Wales; and I have great satisfaction, therefore, in taking this opportunity of expressing my entire and cordial approbation of the judicious and liberal conduct of the Archdeacon.

I have, &c.,

W. Huskisson.

* Note 53.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 24, per ship Countess of Harcourt.)

1828, 30 April.

Sir, Downing Street, 30 April, 1828.

I have received your Dispatch of the 12th of April last, representing the neeessity of separating the Office of Accounts, which has hitherto been held by Assistant Commissary General Lithgow, together with that of Colonial Auditor, and placing the two in distinet hands, an arrangement which you propose to carry into effect by appointing Mr. Lithgow to discharge the Duties of the Colonial Auditor, only assigning to him a Salary of £800 per annum, instead of the remuneration which he previously received for discharging the duty of both offices, amounting together to £542 3s. 9d. Approval of separation of office of accounts from colonial auditor.

The Lords of the Treasury having acquiesced in the separation of the two Offices as proposed by you, they have directed Mr. Spurrier of the Commissariat Department at the Mauritius to proceed to New South Wales to sueceed Mr. Lithgow as Assistant Commissary of Aecounts in that Colony. Appointment of assistant commissary of accounts.

In respect to the Salary which you recommend for the Office of Colonial Auditor, when separated from that of Commissary of Aecounts, it appears to me to be more than is called for with reference to the nature and extent of its duties, or to the amount of the Salary assigned to the other Colonial Offices of equal importance and responsibility. I have, therefore, to direct that the arrangement which you have recommended on the subjeet of Mr. Lithgow's Appointment may be carried into effect, assigning to him a Salary of £650 a year. Salary of colonial auditor.

In assenting, however, to this arrangement, I beg that it may be expressly understood that, while Mr. Lithgow is in the receipt of Salary on account of the above Situation, he is to receive no Pay, Half-Pay or allowance of any description of a Commissariat Offieer.

I have, &c.,
W. HUSKISSON.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 71, per ship Cape Packet; acknowledged by Sir George Murray, 26th November, 1828.)

Sir, Government House, 10th May, 1828. 10 May.

I had the honor to report in my Despatch No. 51, dated the 28th of March last, the arrangement which had been made with respect to the Establishment of the Prineipal Superintendent of Convicts, who is charged with the general Superintendence of the several Convict Establishments. Previous report.

1828. 10 May.

I have now the honor, Sir, to transmit for Your information and consideration the Copy of a Minute which I have issued regulating the Convict Establishment of Hyde Park Barracks.*

Superintendent of Hyde park barracks.

The Superintendent of these Barracks has the immediate charge of all the Prisoners maintained by the Government in Sydney, the Average Number of which may be estimated at 1,200. A Man who had been a prisoner filled the Situation until lately, when it became necessary to remove him in consequence of his dishonest proceedings.

The present Superintendent is a person of respectable Character, who is not likely to be diverted from the proper discharge of his duty. And I trust Sir, You will be satisfied that, considering the nature and extent of the Establishment, the Salaries to the Superintendent and Storekeeper and the Gratuities to the Prisoners employed as Overseers and Constables have been fixed on the most economical Scale consistent with the Responsibility and duties which attach to the respective Individuals.

I have, &c.,
RA. DARLING.

[Enclosure.]

MINUTE No. 59 TO THE COLONIAL SECRETARY.

Government House, 8th May, 1828.

Establishment for Hyde park barracks.

THE Principal Superintendent of Convicts having represented the difficulty which is experienced in carrying on the Duties of Hide Park Barracks, and recommended that fixed Gratuities may be allowed to the Individuals Appointed to the several Situations of Trust, Let it be notified that the Establishment is to be fixed as follows, taking effect from the 1st of April last, Vizt.:—

1 Superintendent			£150	0	0
1 Storekeeper			75	0	0
1 Barrack Clerk of the	1st Class		22	16	3
1 Assistant do of the	2 do		15	4	2
1 Barrack Overseer of	1st do		22	16	3
1 Overseer of Shoemakers	1st do		22	16	3
1 Do of Tailors	1st do		22	16	3
4 Day Constables	1st do		91	5	0
4 Night do	2nd do		60	16	8
4 Messengers of Escorts	3rd do		36	10	0
1 Scourger on the	2nd do		15	4	2
		Total ...	£535	5	0

It is to be understood that the above is intended to shew the Maximum of the Salaries and Gratuities attached to each Appointment, but that it will depend upon the merits of the Individuals who fill the Situations, and the recommendation of the Principal Superintendent of Convicts, whether they are allowed any part of the Indulgence, which is hereby extended to them as an encouragement to good Conduct and the faithful discharge of their Duties.

RA. DARLING.

* Note 54.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828.
(Despatch No. 72, per ship Cape Packet; acknowledged by Sir George Murray, 1st May, 1829.) 11 May.

Sir, Government House, 11th May, 1828.

I have the honor to forward to you at the desire of the Wife of *Lockaye* a Prisoner of the Crown (the subject of Earl Bathurst's Despatch No. 42, dated the 20th of June, 1825, and of my reply dated the 29th of April, 1826, No. 12), who signs herself "E. Edwards," the accompanying Letters on which I have only generally to remark that the Statements they contain are so totally groundless that it would be in vain, as it must be Unnecessary to reply to them. Transmission of letter *re* A. Lockaye.

If the identity of *Lockaye* required any confirmation beyond that conveyed in my Despatch above referred to, it might be satisfactory to state that Colonel Morissett, the present Superintendent of Police, on his being lately brought forward, immediately recognised him as the Convict "Lockaye," who had been formerly under his charge when Commandant at New Castle. Identity of A. Lockaye.

So far from having treated him or his Wife with Severity or harshness, they have both received every possible indulgence. She was permitted to reside with him at the Penal Settlement of Port Macquarie, and, on her representation that her Health had suffered from the Heat of that Climate, he was released and sent to Bathurst, where he was subjected to no further restraint than that of not leaving the Settlement. The Magistrates however soon found it necessary to apply for his removal, as, having been bred an Attorney, he was intriguing with the Prisoners and occasioning much trouble and dissatisfaction in the District. He was then Ordered to Wellington Valley, directions being given, as there were no means of obtaining daily Supplies at that Place, which is in the Interior, that his Wife and Children should receive Rations gratis from the Public Stores. She then applied to the Magistrates at Bathurst to allow them three or four days to prepare for their departure, which, being granted, Lockaye immediately absconded and came to Sydney, no doubt with a view of again making his escape from the Colony. Treatment of A. Lockaye and wife.

His Wife remained perfectly quiet at Bathurst, the better to conceal his flight. But, it being discovered on the third or fourth day, a Reward was offered for his Apprehension and he was taken in Sydney. You will be able to judge, Sir, from this Statement whether these people have been treated with harshness or unmerited indulgence.

I have, &c.,
RA. DARLING.

1828.
11 May.

[Enclosure No. 1.]

Mrs. E. Edwards to Right Hon. W. Huskisson.

Sydney, 15th April, 1828.

Correspondence *re* A. Lockaye *alias* W. Edwards.

Sir,

When, through the intimacy that subsisted between Admiral Bartie, his Daughter and Officers, and my late Father, Mr. Petrus Reus at the Cape of Good Hope, I became intimate with the worth of the British Character; and when, through reading English Books, I comprehend the genius of a People which could make the plausible improbability of Shylock, I prayed that, for my Husband, I might have one of this great Nation, and, although I have met nothing but Misfortune since my Marriage, I still consider myself happy in the fate which united me to Mr. William Edwards an English Notary in Cape Town.

Besides the above, General Pigot and the Officers of the 21st Light Dragoons will inform you of the worth and honor of my Family; so, without further introduction, I will state my heart-rending Situation and seek from the real English Gentleman that compassion and justice which is not to be had from any of another Cast.

My Husband was employed professionally to prosecute Lord Charles Somerset as Judge of the Court of Appeal; he took the first steps in our Law, and made a Notarial Notification to His Lordship, for which Dutch Judges (I am descended from the Germans) condemned him to Seven Years' Transportation here.

On our arrival, he claimed to be exempt from the Law affecting English Convicts, and, the Government finding he could not be held under it, a Supretendent pretence that he was one Lookaye, a runaway, and People were procured who swore that it was so; we were then sent to a Penal Settlement, and after having been detained near three Years, on the high recommendation of two successive Commandants as to my Husband's good Character, we were recalled and sent to Bathurst, a Settlement in the Interior, where the Colonial Secretary, in the Name of His Excellency General Darling, immediately informed the Superintendent that my Husband was a Man of bad and dangerous Character; in consequence of this Letter, so decidedly at variance with the alleged reason for relieving us from the Penal Settlement, we were persecuted beyond measure by a Military Officer of the place, who prevailed on General Darling to send us 100 Miles farther into the Wilderness, because my Husband (who was obliged to earn our Bread by his Pen) had been solicited to write the Brief of a Man Committed for Trial. Although he refused to comply, knowing the Man was disliked by Government Officers; the Person has been subsequently acquitted.

My Husband wrote to explain his Offence to the Colonial Secretary, but it was unnoticed; I wrote to the Private Secretary a Letter which was laid before General Darling, who, without reading it, answered that he was not to be troubled about us; so without offending and unheard, we were Condemned by Governor Darling to be placed in the Mountains 100 Miles beyond the reach of Medical assistance to my ill health, or the means of getting Bread for our Children.

Rendered desperate by our Persecutions, my Husband appealed to the Supreme Court, and informed the Chief Justice he should attend on his Honor; in consequence of which, he left home on the 1st January last, and repaired to Sydney.

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11 May.

Correspondence *re* A. Lockaye *alias* W. Edwards.

The Judge being at his Farm, he Waited for his return; but, after 10 days, the Governor, pretending to believe that he was leaving the Colony, offered £50 reward for him, being twenty five times more than has ever before been paid for a Man only charged with absenting himself, and he was Sentenced to be sent for three Years to Norfolk Island, Six Months' Work on the roads being the severest Sentence heretofore passed on any case of simple Absentee.

Distracted at the thought of leaving myself and Children unprotected in a Strange Country, my loved Husband authorised me to make any concession that might be asked, and assured me he would for our sake submit to whatever was required, though he declared to me that the pretence of his being Lookaye was false.

In his Name and my own, I offered every concession; but I was told by the Secretary he did not speak his sentiments.

Whilst I accidentally learnt that our Gracious Sovereign had more than two Years ago Commanded the Governor to release my Husband, on proving that he was not Lookaye, Mr. Shnell an English Gentleman informed me of a Person, who had recently conversed with the real Lookaye, working for Government on the Roads.

I communicated this latter fact to the Governor, but it was not noticed; Mr. Suell has made an affidavit of it before the Supreme Court, and my poverty alone prevents me sending you the Copy of his affidavit.

I have since found that the Person who saw Lookaye has been silently released from Prison, and Lookaye removed from the place where he was seen.

When my Husband was brought to Trial, the lowest and basest of People were called to Swear that he was Lookaye (except two Government Surgeons), who all on Cross Examination so contradicted themselves and each other, as to shew that he was not the Man; but, the Magistrates having refused to take down these Cross Examinations, I sent them to General Darling in March, 1826, and I hope you will require the Documents from him as the Police Clerk, after reading it, assured me it was a most correct report, and it will refute all the falsehoods of all our hard hearted Persecutors.

Every time my Husband has been taken before the Magistrates for what they here call "a Trial," he has been taken unprepared at a moment's warning, after having been for a long time previously closely precluded from conversing with any Person, and latterly I have been for more than a Month denied the happiness of conversing with him.

To get rid of this horrible state of sufferings, I proposed that, if we were allowed to live in some remote part of the Colony under the strictest surveillance, my Husband should within two Years procure from England the proof His Majesty had required, or for ever bear the Sentence of Lookaye; but it was refused, as nothing would satisfy these Christian Rulers but to separate us, or to take from me what Shylock demanded.

I have also proposed that my Husband and myself with our Children will go to England, In any way the Governor shall chose, that, when we be landed and he at large, he may be taken there, and, if he is Lookaye, be tried and hanged; this also was refused, because no such ready Witnesses or complying Magistrates are there to be found or would there be required.

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11 May.

Correspondence *re* A. Lockaye *alias* W. Edwards.

Nothing will assist General Darling which will give us a fair Trial; he thinks by persecuting my wretched Husband to please the Beaufort Family, and procure himself a powerful Patron, as if such Patrons were before a clear conscience and the patronage of a just and Merciful God, and a great and benevolent Monarch, whilst I on the contrary think that, by laying my Melancholy case before you, I shall procure the patronage of a real Gentleman of England, unswayed by prejudices or passion, and through you the kind Consideration of our Gracious Sovereign towards my persecuted husband, my Children and myself.

I cannot help bewailing the cruel persecutions I have endured under General Darling. He Published a general Amnesty to Prisoners at Penal Settlements, under illegal Sentences; my husband was the only exception out of 700.

He offered to all free married Women of good Character an Assignment of their Husbands; I was the Solitary exception, although I can challenge General Darling to shew a Wife or a Mother in the Colony with a better Character; in fact he has made so many orders, Notices and Proclamations, from which he has immediately deviated, it is become the general opinion that his notions are not intended to act here, but to have Stage effect in England, and some People compare them to Houses, children build with Soiled Cards.

The Secretary, Mr. McLeay, said my Husband did not speak his true sentiments, when he spoke humbly and respectfully of the Governor, and that General Darling was convinced of it; I will not pretend to judge whether General Darling draws this Conclusion from a Conviction that he did not merit it, or from a suspicion that, like his Letters of recal from Port Macquarie and our removal to Bathurst, he said one thing whilst he meant another; General Darling employed the Police to intercept and seize my Husband's Papers, and I hope you will require him to forward them all for your Inspection, and also the Letters of my Husband, 14th January, 1828, soliciting their restoration, and then, Sir, you may compare the Noble Sentiments of my Husband's application, with the pitiful prying action of His Most Sacred Majesty's Representative, condescending to peep into the purloined secrets of misfortune.

Several humane Gentlemen here have endeavoured to intercede for me, that my husband might not be torne from me, and they have informed me that General Darling invariably flies into so great a passion on our Name being mentioned, that they dare not speak of us again. Great God is it possible that this Governor can be made in the same Mould as the Noble Poet who says: "What are Judges who give way to passion, They are not Men, they are Assassins!" Indeed, Sir, I am convinced that General Darling does not believe that my Husband is Lookaye, as he has invariably shrunk from seeing me, when I have waited on him at Government House on his days of Business, and that he knows, if he were in our Situation, and some other Governor wished to prosecute him, the same Persons, who have now Sworn against us, would Swear they had known him as a Felon; if such were not his opinion, why did he not communicate to us His Majesty's gracious Pleasure 2 Years ago, and require us to rebut the idle pretence that Mr. Edwards is Lookaye or suffer as such? Why did he not seek Lookaye when I told him where the Felon was to be found? Why

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11 May.

Correspondence re A. Lockaye *alias* W. Edwards.

was he and the Man who saw him silently removed out of my knowledge? Why always keep Mr. Edwards so closely confined before Trial and ignorant of the intention to put him on his Trial? Why refuse me, his Wife, to see him for a Month? Why refuse to see me on his day of Business, as I have not soiled my fair fame, unless he may think I do it by a virtuous adherence to a Worthy Husband? and why shrink from his Public Duty in hearing what I could say in our defence?

I could proceed at great length in this matter, but I fear I shall grow tiresome; so I will cease, convinced that I shall at your hands meet the Justice and mercy which is due to my sufferings, and that by you my Husband will be put in a Situation to have a fair Trial in England beyond the reach of persecuting obstinacy; fearful that General Darling may omit to send the whole of the Papers taken from my Husband, which will shew how we have been persecuted, I shall send his Journal, in which they are all neatly copied to his Brother John Edwards, as soon as I can procure it from the Person in whose hands I left it at Bathurst, to be laid before you; so unrelenting has been the vindictive persecutions with which General Darling has persecuted my unoffending husband, that he has not only set at nought the fine system of classification of Felons in England, but has condescended to give orders to the keepers of the Jail and Hulk, which puts a Man of honesty, liberal Education, and polished Manners, on a level with the worst Malefactors.

Perhaps you may think I am too anxious and too bold in expressing myself; but, if you had known how much I have suffered from General Darling's revenge, if you had seen how large my heart of darling grief, if you had seen a Sister or a friend left with two helpless babes in a Foreign Country to starve, for three Years forcibly seperated from a dear husband, if you could comprehend the loss of my dear husband, but this, none but one can comprehend.

For to have known my loss, you must have known his worth, his truth and tenderness of Love.

If you could have known all my sufferings, you could not feel offended at the warmth of my sorrow.

I have the honor to be, &c.,

E. E. Edwards—Geboren Reus.

P.S.—As all the Malice of our Enemies has been unable to charge my Husband or myself with one immoral, dishonest or unworthy action, I entreat of you, by your love of Justice and Mercy, to require from General Darling some other reason than a wish to please the Beaufort Family, why he has so cruelly persecuted us, and why I have been for several Weeks refused the comfort, due to a Chaste Wife and virtuous Mother, of conversing with a beloved Husband, whilst the Indulgence has been granted to every other Woman who required it, although many of them have been Felons of very loose Morals and bad character; and I ask you to judge if this is not a vindictive and obstinate revenge.

I also take the liberty of sending you a Letter, which my Husband wrote to me, the moment after his last mockery of a Trial, and I hope you will require from General Darling the Letter Mr. Edwards sent to the Colonial Secretary Mr. McLeay on the 13 day of January last.

1828.
11 May.

Correspondence *re* A. Lockaye *alias* W. Edwards.

[Enclosure No. 2.]

W. Edwards to Mrs. E. Edwards.

My best beloved Betta, Sydney Prison, 29th March, 1828.

If you can spare a few moments from your Children, I shall find great happiness in receiving a visit from you in the sad place from which I write to inform you, that I was this morning taken to the Police Office and wish to see you lest you may be alarmed by Public report of my fate.

When I was placed at the Bar, a Government Law Officer made a deposition that the Proceedings of my former Trial had been lost; he also swore to an Extract from the Judge's Minutes, as a rule of Court. Conceiving the decision of the 22nd instant in my case, which ordered that I should be again brought before the Magistrates to have my Sentence completed by affixing a time to it.

Upon this Colonel Morisset said that, as the proceedings had been lost, he thought it necessary to put me again on Trial; and, perceiving that this step was illegal, I resolved not to open my lips but to watch for objections, should my sentence be beyond the ordinary Punishment for offences like mine; and I was encouraged to this by the recollection that Col. Morisset had formerly ordered me to hold my Tongue, when I objected to Chapman's Evidence.

Chapman, whose testimony against me was discredited and impugned in March, 1826, was called, and he swore he had known me for Several Years, when he was Overseer of the Hyde Park Barrack and Constable of the Lumber Yard, my name being Lookaye.

Elliott, who was removed from his office at Newcastle by Colonel Morisset for some Misdemeanor, and who was Committed to Gaol for Stealing a Pig, when we were at Newcastle in February, 1826, Swore that he there Mustered me three times a day for three Years from 1820 to 1823, and my Name was Lookaye.

Mr. Plomer, the respectable Government Storekeeper to whom I was known in 1826, Swore that he and Lookaye were Clerks, and he never knew me but by the Name of Edwards, and, if I was Lookaye, I was so much altered that it was impossible to know me.

Jilks swore than he got £50 for taking me, as if that encreased my offence, and I was Sentenced to be sent to a Penal Settlement for three Years.

As I passed down George Street, I overtook Captain Bunn, one of my Judges, and he told me he did not doubt that it was the Governor's intention to send me to Norfolk Island.

I strictly followed the advice you received from Mr. Berry, one of my Judges, and humbled myself so much as to be ashamed of doing so. But what would I not do for your Sake?

This second Trial and Sentence is not only decidedly illegal, but contrary to the decision of the Supreme Court, because it takes effect from this day, whereas it ought to commence from the 14 January last, the day of my first Trial, as by this means the Magistracy, who are restrained in their Punishment to three Years, have transported me 3 Years, 2 Months, and 15 days; so, if I find it needful, it may yet be reversed.

You must not let this decision that I am Lookaye annoy you; because you cannot forget that, by an Extract from the Secretary's Books in 1826, I proved that Lookaye could not be known to Chapman or Elliott as they pretend. Lookaye came to this Colony in

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11 May.

Correspondence *re* A. Lockaye *alias* W. Edwards.

November, 1819, and was removed immediately to Newcastle, where he remained until March or April, 1821, when he returned to Sydney, and runaway in 1822. Elliott was appointed Superintendent at Newcastle in July, 1821, and then first went there, so that he could only be known to those two Persons 6 or 7 Months, suppose he had been constantly under their eyes, whilst he was at their respective Stations. Thus their Years are dwindled into Months, and you should recollect that a Man, who deceives in part, is unworthy of belief in toto, if these Men were of good Character—but bad as if their Name, think nothing of what they say. I will refute them when it is needful.

Then look at the description of myself and Lookaye in the Secretary's Books; nothing could be more dissimilar, yet the correctness of mine vouches for the accuracy of Lookaye's.

And again ask yourself why was not the real Lookaye brought from the Cowpastures; but I will cease arguing, because, after all, I really think my Sentence has been made so uncommonly severe in order to give the Governor an opportunity to exercise the generosity of his disposition, that he may claim our gratitude and affection, and perhaps we may be sent to some other part of the Colony, where we are unknown, and no prejudice will be raised against us, as was at Port Macquarie and Bathurst. My Paper cuts me off writing more than to say, God bless you and my dear babes, and preserve you for your True

WM. EDWARDS.

[Enclosure No. 3.]

MRS. E. EDWARDS TO RIGHT HON. W. HUSKISSON.

Right Honble. Sir, Sydney, 21st April, 1828.

In addition to the Letter which I had the honor of forwarding to you, through His Excellency General Darling on the 15th instant, I wish also to inform you that, after his Public Notice that all Married Women of good Character should have their Husbands assigned to them as a Support to their Families, I applied for mine, and, although neither he or I have been ever charged with one dishonest Act, my request was refused on the pretence of his having formerly run away, whilst William Gerrard, who has been all his Life a Notorious Thief, often Convicted, and had really runaway from this Colony, and came back in the same Ship with me, was assigned to his Wife, a Woman who had been a common Street Walker in London, and has been since herself imprisoned: this Man and many others of the same Class was also relieved from Port Macquarie under the Proclamation to which I was made an exception.

Another glaring instance has lately occurred, Andrew Gardener, whose Wife has been a most notorious Receiver of Stolen Property, and has a bad Character in another way, was lately tried and Convicted as a receiver of Property, Stolen by a Servant from his Master, having two Indictments against him; yet his Wife got him off after a few Weeks' Imprisonment on board the Hulk, where my Husband is detained out of my sight.

Whilst these things occur in great numbers, I am left in a Foreign Country with two Children to support by my Labor, unprotected and almost unknown; but I have lately found reason from an

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Correspondence *re* A. Lockaye *alias* W. Edwards.

insult, offered to me by a Soldier Sergeant, that, if I were of the same cast as the generality of those Women who procure favor in this Colony, my Husband also might be favored, though I thank my Creator that we are both of the same temper, that we can bear separation and starvation rather than forfeit our Souls to procure so base a reward. I have, &c.,

E. Edwards—Geboren Reus.

Right Hon. W. Huskisson to Governor Darling.

(Despatch No. 25, per ship Albion; acknowledged by Governor Darling, 7th April, 1829.)

12 May.

Transmission of statement for report.

Sir, Downing Street, 12 May, 1828.

I have the honor to transmit to you the Copy of a Letter from the Secretary to the Treasury, enclosing a Copy of a Communication from the Deputy Acting Commissary General at New South Wales, containing a Statement which had been sent home by him in compliance with Instructions which were issued by the Lords Commissioners of the Treasury to Officers in charge of the Department of Accounts to report how far any Expenditure, which may have come under their examination, may be dispensed with; and I have to request that you will furnish me with such observations as you may have to offer on the suggestions contained in Deputy Acting Commissary Maddox's Communication to the Lords Commissioners of the Treasury.

I have, &c.,

W. Huskisson.

[Enclosure.]

Mr. G. R. Dawson to Under Secretary Hay.

Sir, Treasury Chambers, 26th April, 1828.

I have it in command, from The Lords Commissioners of His Majesty's Treasury, to transmit to you the accompanying copy of a Letter from Depy. Actg. Comy. Genl. Maddox, dated New South Wales, the 4th Novr., 1827, in regard to the Instructions to the Officers in Charge of the Department of Accounts to Report how far any Expenditure that may come under their Examination might be dispensed with; and I am to request that you will submit the same to Mr. Secretary Huskisson and move him to cause it to be conveyed to the Governor of New South Wales for such observations thereon as he may wish to offer; but My Lords apprehend that, if the arrangements recommended by Mr. Maddox were so obvious or practicable as he supposes them to be, the Governor would himself have adopted them or have recommended them for adoption. I am, &c.,

Geo. R. Dawson.

[Sub-enclosure No. 1.]

1828.
12 May.

DEP. ACTG. COMMISSARY GENL. MADDOX TO MR. W. HILL.

Commissariat of Accounts Office.

Sir. New South Wales, 4th Novr., 1827.

I beg leave to observe that I have considered it advisable to transmit the enclosed suggestions in my own hand writing and not through the Office; I have the Copy with my confidential communications. I have, &c.,

Transmission of confidential report.

GEO. THOS. MADDOX.

[Sub-enclosure No. 2.]

DEP. ACTG. COMMISSARY GENL. MADDOX TO MR. W. HILL.

Commissariat of Accounts Office,

Sir, New South Wales, 4th Novr., 1827.

With reference to their Lordships' Instructions to the Officers in Charge of the Department of Accounts, directing them to report how far any Expenditure that may come under their Examination might be dispensed with, I beg leave to report that I have ascertained that a considerable proportion of the expense incurred in maintaining and clothing the Prisoners of the Crown might be saved; and, provided the measure which I have the honor to submit to the consideration of their Lordships, is borne out by the Returns and Estimates transmitted from this Colony, its adoption would prove equally beneficial to the Government and to the Colony. I beg leave to refer their Lordships to the Estimates and Returns transmitted by this Mail, and their Lordships will observe that the maintenance of about one Thousand three hundred Military forms but a small proportion of the estimated expenditure; the maintenance and clothing of the Convicts exceeds eighty Thousand pounds per annum; the pay and allowances of the Commissariat and other Establishments necessarily formed in consequence, together with the destruction of the Provisions and Stores from Vermin and other causes, the maintenance and clothing of the Convicts in this Colony has not up to the present period been less than one hundred Thousand pounds per annum; and, when the value of the labour of the Convicts is compared with the Expense of maintaining them, the Government do not, from causes which I shall beg leave to explain, receive in return a balance or corresponding value of one sixth of the Expenditure.

Proposed plan for reduction in expenditure on convicts.

A considerable proportion of the labour of 4,400, maintained at the Public expense, is expended on themselves in making their own clothing, and providing for incidental Expenses and occurrences, which they create and which would not exist, if they were otherwise provided for.

The small proportion of labour, obtained from so large a number of Convicts, proceeds in some measure from despondency arising from their being retained in Government Employ; and also I conceive from the food, which they receive from Government not being sufficient to support them as labourers; the Weather in this climate for a considerable proportion of the Year is oppressive and the Labourer requires food to support him in proportion to the labour required of him; the Convict receives his allowance of Food in two proportions, at 5 o'Clock in the morning and 12 at Noon, leaving an interval of sixteen hours; their allowance of 1 lb. of Meat, 1 lb. of

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Proposed plan for reduction in expenditure on convicts.

flour, and ½ lb. of Maize, with nothing but water to drink, may be considered one of the principal causes of the public works not proceeding in proportion to the number employed on them.

If an addition of one fourth was added to the Convicts' Allowances, it would increase the expense of maintaining them £20,000 per Annum without affording the slightest prospect of any corresponding return; the Magistrates and Authorities, who regulated their Allowances, ascertained that no additional exertions had been obtained from the Convicts by any increase of Allowances they have hitherto received at the hands of Government; consequently having ascertained this fact, it became imperatively their duty not to incur any further expense than was considered actually necessary for their support; I beg leave to observe that, altho' the ration is considered sufficient for their support as Convicts (and if it has any defect it is too liberal), yet it is the reverse for a labouring man in this Colony.

It would be attended with too great expense and trouble, and leave the Government open to innumerable frauds to make any distinction of Allowances in so many detached working parties.

I beg leave to submit that the whole of these obstacles are removed and a corresponding value for the maintenance and clothing ensured in every instance where they have been assigned to the Settlers; Milk, Vegetables and fresh meat being the natural produce of the settlers' Estates, the prisoner obtains generally as much as he requires. And the indulgencies and kind treatment, which the Settler is interested in allowing the prisoner, produce an earlier reformation in his habits and conduct than any other the Government have hitherto adopted. The settlers' Estates, becoming every day more extended, deprives the Convicts of the facilities they now have of associating with each other. It is considered that none but those whose refractory conduct renders coercive measures necessary should be retained in Government Employ.

I beg leave to submit that it is generally allowed that the greatest obstacle to the prosperity of the Colony is the great scarcity of labourers and Mechanics. The adoption of the measure I propose would in a great degree obviate this defect, as it might be considered that the Colony would receive an addition to them, the daily labour of at least three Thousand men.

I beg leave to report that I have ascertained that at the present period the settlers would find it their interest to take nearly the whole of the expense of the maintenance of the Convicts out of the hands of Government for their labour; but, as it is probable that they would not retain them for any longer period than answered their interests, and as no law or arrangements could be made to oblige them to retain them for any longer period, and as none but the refuse and refractory would be retained by the Government, precautionary measures must be used to provide against all these contingencies; and the Government must remain prepared to receive them, should they at any future period be returned.

I beg leave to submit that, as one hundred thousand pounds per annum is below the expense hitherto incurred in maintaining the prisoners of the Crown for the last Ten Years, it might safely be fixed at that ratio for the next three Years; And that His Excellency the Governor should be instructed to convert such Balance as should remain at the end of each Quarter, over and above the actual expense incurred in maintaining the Convicts retained in

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Proposed plan for reduction in expenditure on convicts.

Government Employ, in the erection of such Public Works and Improvements as he may consider necessary, or to apply it in protecting the Colony against those contingencies, which now exist and may ultimately be the results of the importation into the Colony of so many desperate characters. I beg leave to submit that all the Public Works and improvements commenced in consequence of this arrangement should be performed by contract, and that no public work or improvement should be commenced unless the means of completing it has been ascertained by the balance of the preceeding Quarter. And I beg leave to suggest that, in such proportions as the Settlers should return the Convicts to be maintained and clothed by Government, in the same proportion the works and Improvements should cease and the money be applied as usual. Their Lordships are informed of three public Buildings required and which (as I am informed) are delayed for want of Funds to complete them; when the great number of Convicts and desperate characters are considered, the completion of the New Gaol becomes every day more important; the increasing Commerce of the Colony renders an eligible Custom House and Wharf necessary, and the important duties, which His Excellency the Governor has to perform, requires a suitable Residence; It has been Estimated that it will require one hundred and fifty thousand pounds to complete these buildings.

In submitting this arrangement to the consideration of their Lordships, they will perceive that all parties concerned are mutually benefitted without incurring any additional expense; and the result would be that the Colony would be benefitted at the end of three Years with public Works and Improvements to the Value of £200,000; whereas by the present System that amount will be exhausted without any return.

I beg leave to state that I have as far as practicable visited the several Establishments for the purpose of ascertaining these facts and to report if any part of the expense incurred might be dispensed with; I found the whole of the establishments regulated with strictest order and economy, and I could not in a single instance discover where any improvement could be suggested.

I have, &c.,
GEO. THOS. MADDOX.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.

(Despatch No. 26, per ship Albion.)

Sir, Downing Street, 13 May, 1828. 13 May.

Appointment of Mitchell as civil engineer.

With reference to my letter of the 28th Ultimo, I have the honor to acquaint you that, Major Mitchell having been represented to me as being peculiarly qualified by his attainments for discharging the duties of Civil Engineer, I have appointed him to that Situation with a Salary at the rate of £700 per annum, of which he will be entitled to receive one moiety from the date of embarkation, until such time as he shall report his arrival in the Colony.

The above Salary of £700 agrees with that alluded to in my Dispatch of the 31st of March; but, as it so much exceeds the

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amount originally intended for the remuneration of the Officer who might be selected for that appointment, I have explained to Major Mitchell that he is not to expect to receive any *allowances* in addition to the Salary above stated. I have, &c.,

W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 73, per ship Cape Packet; acknowledged by Sir George Murray, 26th November, 1828.)

Sir, Government House, 13th May, 1828.

Arrears in department of surveyor-general.

The inconvenience, which continues to be experienced from the present State of the Survey of the Colony and the inadequacy of the means of the Surveyor General's Department to the duties it has to perform, have induced me to consult Major Mitchell, Mr. Oxley having for some time past been unable to attend to any Public Business, as to the best course to be pursued under the above Circumstances.

Trigonometrical survey to be commenced.

Major Mitchell is decidedly of opinion that a Trigonometrical Survey should be immediately commenced as a Necessary foundation to the more particular Survey of the Colony. I have in consequence Authorised the employment of a few of the Assistant Surveyors for that purpose, and they have lately proceeded with him to Argyle and that neighbourhood. This will also afford him an opportunity of becoming acquainted with the Country which circumstances have not hitherto permitted.

Inconvenience expected.

This proceeding, while it forwards the general Survey, will of course interfere with the immediate location of lands by withdrawing a portion of the Surveyors from that object, and may occasion some dissatisfaction amongst the Settlers who generally complain of the inconvenience they experience from the Circumstance of not receiving their Title Deeds, which cannot be made out until their Farms have been Measured; and it will further have the effect of preventing the Government collecting the Quit Rent on the Unsurveyed Grants for a proportionately longer period.

Report required *re* general survey.

Considering it highly desirable after my Communication with Major Mitchell to ascertain more particularly what prospect there was of the general Survey being brought Up, I requested he would Maturely Consider the subject and furnish me with Such data as would enable me to bring it fully Under Your view, so that His Majesty's Government might have the means of judging as to the extent to which additional assistance would be Necessary and to determine whether that assistance could be afforded.

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13 May.

The enclosed Memoranda was prepared in Consequence, and I am sorry to observe places the object, the general Survey of the Country, in Such a point of view as to render its Attainment without very considerable additional means totally impracticable. Report submitted.

The embarrassments, which must result from this, will be attended with the most serious consequences. At present in many Cases, the Settlers are not assured of the extent or limits of their Property; their Boundaries, when their Farms come to be Measured will no doubt be found in many cases to interfere, owing to the Vague descriptions they give in, when reporting the selections they have made. Others again Settle upon land to which they have no Claim, and having established themselves are not disposed to yield to those who obtain a Grant of it. Embarrassments caused by delay.

I have been anxious, in order to remove a portion of the embarrassment which is experienced, the Settlers being naturally anxious to know to a Certainty the exact Sum at which their lands are to be rated, to devise some expedient for valuing the land so as to answer instead of the Valuation by the Commissioners; and it appears that a general average Valuation, as the Settlers are allowed to Select their land, would be free from objection, would answer the purpose effectually, and would in every respect be highly beneficial and convenient. I am now preparing to bring this with other matters connected with the subject of land under the consideration of the Executive Council, and I hope, Sir, to be enabled in a short time to submit the result for your Consideration. Proposed general valuation of land.

I have thought it necessary, the better to afford you the means of judging of the extent to which it may be proper to encrease the Establishment of the Survey Department, to transmit a List shewing the Number of Surveyors, etc., employed in the Year 1826 and at the present time. Return of surveyors.

It will be observed that, notwithstanding the Six Assistants lately sent out, the Numbers employed at the time of my arrival and at present are nearly equal, while the Current Business of the Department, independent of the enormous Arrears, is to a very considerable extent, and would require a Numerous body of Surveyors to attend to it. Staff employed.

The demand for Draughtsmen is equally urgent. Preparing the County and Parish Maps alone, which it is necessary should be completed with great Care and Skill and are extremely Numerous, *three* of each being necessary as *Records*, independent of those required for the use of the Public Departments and the information of Settlers. It will be seen that the preparation of these would occupy several competent hands, there being *64* Parishes on an average in each County. As the Survey of Urgent demand for draftsmen.

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Parishes advances, almost any Number of Draughtsmen could be employed. There are at present only *four,* but I have not felt myself at liberty to encrease the Number.

Probable effect of delay.

I cannot, Sir, too earnestly recommend this Subject to your Consideration. If means are not used speedily to advance the Survey of the Colony and facilitate the more regular location of Settlers, the embarrassments, which already exist, must become irremediable and the foundation of others will be laid, as injurious to the Public as to the interests of private Individuals.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MEMORANDUM.

Memorandum by T. L. Mitchell on survey of colony.

1. The present limits* of the Colony of New South Wales comprise about 33,180 Square Miles.

2. This Territory may be divided according to The King's Instructions into Sixteen Counties.

3. A Medium County should measure 40 Miles Square, and would consequently contain 1,600 Square Miles.

4. A Medium Parish should contain 25 Square Miles, consequently a County of 1,600 Square Miles would comprise 64 Parishes.

5. A Seventh part in extent and Value of each County is to be set off "in one continuous and unbroken Tract" for the Clergy and School Estate. The Parishes are to be separated by Natural Boundaries, and divided into Sections of Square Miles.

6. A Survey must be made before the Commissioners can determine the Superficial extent, or decide on the proportion thereof to be allotted for the Clergy and School Estate, or subdivide the same into hundreds and Parishes of given superficial dimensions.

7. The Surveyor General's Department consists of Nine effective Surveyors, who have been hitherto fully occupied in the Measurement of Grants.

8. The Country now required to be Surveyed is of greater extent than Ireland, which including its Lakes contains only 32,201 Square Miles (According to Wakefield).

9. In the Trigonometrical Survey of that Country now in progress, the Surveyors employed by Contract Survey Annually 150 Square Miles.

10. At this rate, were this Country free from Woods like Ireland, and no Grants were to be Measured, it might be calculated that the Survey should be accomplished by the present hands in Twenty four Years.

* Note 55.

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Memorandum by T. L. Mitchell on survey of colony.

11. In Britain and Ireland the Country is in general sufficiently clear of Wood for the purpose of Surveying; In this Country the Woods render even the practicability of such Survey doubtful.

12. In Ireland, the number of Surveyors employed is very considerable, and no Man knows when the Undertaking will be completed. This Country, being of greater extent and under the above impediment, is required to be Surveyed by Nine Surveyors whose strength has never been equal to their more immediate Duties, the Measurement of Farms.

13. The objects of the Work required will not admit of progressive performance; the Church and School Estate, to be in one continuous and unbroken Tract, must be set off before Selections have been made in a County, otherwise an unbroken Tract of sufficient extent may not be found in any new County.

14. Good Land is now Selected wherever it can be found, and it is so scarce that, even with the present small Population, various Selections have already been made beyond the prescribed Limits.

T. L. Mitchell, Dep. Sury. Genl.

Sydney, 29th April, 1828.

[Enclosure No. 2.]

List of officers in department of surveyor-general.

List of Assistant Surveyors and Clerks in the Surveyor General's Department at the Commencement of the Year 1826 and at the present time.

Assistant Surveyors.

1826.—Messrs. Harpur, Dangar, Cavenagh, Hoddle, Richards, McBrien, Rodd, Finch, Ralfe.

1828.—Messrs. Hoddle, Richards, Finch, Ralfe, Florance, Dixon, White, Elliott, Abbott, Govett.

Draftsmen.

1826.—Mr. Stewart.

1828.—Messrs. Thompson, Knapp, Beni, Brown.

Clerks.

1826.—Messrs. Jackson, O'Hara, Stock.

1828.—Messrs. Duncombe, White (to be employed as Draftsmen), Halloran (a Junior Clerk).

Note.—In transmitting the above List shewing the relative strength of this Department at present and at the Commencement of the Year 1826, I beg to observe that the Assistant Surveyors in the Field, being generally employed at a much greater distance from hence and in more Mountainous Districts, meet with many difficulties and delays which were not formerly experienced. They are less under the Eye of the Head of the Department.

The Draftsmen in the Office also have been for some time principally occupied in preparing Maps of Parishes, etc., for the Commissioners for apportioning the Territory. There were besides at the former period two experienced Clerks attached to the Office, whose places have been hitherto filled by two Boys, whilst the Business is more than doubled.

1828. 13 May. In 1826, besides the Surveyor General, there were many Individuals in the Office personally acquainted with the Applicants generally, and who, recollecting every occurrence connected with the Department, were perfectly at home in any question which required reference.

T. L. Mitchell, Actg. Surv. Genl.

Surveyor General's Office, 15th March, 1828.

Lord Francis Leveson Gower to Governor Darling.*

14 May. Sir, Downing Street, 14 May, 1828.

B. Langa appointed comptroller of customs. This Letter will be presented to you by Mr. Berman Langa, who, at the recommendation of Mr. Huskisson, has been appointed by the Lords Commissioners of the Treasury Comptroller of the Customs at New South Wales; and I am directed by Mr. Huskisson to introduce this Gentleman to your protection and good offices.

I am, &c.,

F. Leveson Gower.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 74, per ship Cape Packet; acknowledged by Sir George Murray, 30th August, 1829.)

Sir, Government House, 14th May, 1828.

Proposal to abolish official residences. I am induced to submit to your consideration the great convenience and advantage which would result to the Service by discontinuing the Houses allowed for the residence of the Civil Servants of the Government.

2d. It would be attended with convenience as relieving Government from the Superintendence and Repair of such Buildings and would I have no doubt prove a Measure of economy.

3d. At present the Chief Justice, Colonial Secretary and Surveyor General are in possession of excellent Substantial Houses, which, from the Situation† of the two former in particular with reference to Government House and that part of the Town where Business is carried on, might with great advantage and without Expense be appropriated to the accommodation of the Executive and Legislative Councils, and some of the Public Offices.

4th. The Surveyor General's House and Office are in separate Buildings and in a distant part of the Town from those above mentioned. I should therefore propose, as soon as possession could be obtained of the Chief Justice's and the Colonial Secretary's Houses, to dispose of the Surveyor General's House and Office, which might then without inconvenience be dispensed with.

Proposed site for new public offices. 5th. When any Building should be required hereafter for a Public Office, I should recommend‡ its being erected in Macquarie

* Note 3. † Note 56. ‡ Note 57.

Place immediately opposite the Range now proposed for the Public Offices, as will be seen by reference to the accompanying Sketch. 1828. 14 May.

6th. The Public Establishments and Offices to be provided for are as follows, which, as soon as the measure can be fully carried into effect, I should propose arranging in the manner I now beg leave to point out, Vizt.:— Proposed arrangement of public offices.

1. Executive Council; 2. Legislative Council; 3. Audit Office—To occupy the Chief Justice's House; 4. Colonial Secretary's Office—The Colonial Secretary's House to be appropriated to this; 5. Surveyor General's Office —The Colonial Secretary's present Office to be allotted as the Surveyor General's; 6. Treasury—To remain as at present, being within the Barrack Square in a Building, where the Military Cash Department is kept, Vaults having been already constructed for the Security of the Respective Chests; 7. Custom House—To remain as at present, being in a Government Building; but, as it is not conveniently Situated with reference to the Wharfs, and the Government is at Considerable Expense (£750 a Year) in hiring Warehouses, I propose submitting, as soon as I can find time, a Plan of a Custom House, with the necessary Accommodation for the Reception of Goods to be placed in Bond, etc.; 8. Internal Revenue Office; 9. Land Board—The Necessary Accommodation to be allotted in the first Floor of the present Custom House.

7th. It will be perceived that this arrangement cannot be fully carried into effect until the Chief Justice, the Colonial Secretary and the Surveyor General have given up their Houses. But, should any one of these fall vacant, I should, presuming from the advantage of the arrangement that it would receive your approval, avail myself of the opportunity and act on it as far as circumstances would permit. Plan to be adopted on vacation of residences.

8th. I beg to observe that some arrangements, such as is proposed, is absolutely necessary for the more convenient accommodation of the Public Establishments. The Executive and Legislative Councils for example have but one Miserable Apartment between them, which appears derogatory to the Character of such Bodies. Besides this, some of the Military Departments are in the same Building with the Civil Offices and Vice Versa, and the separation might be conveniently effected by the proposed Arrangement, which circumstances have not hitherto permitted. Accommodation for councils.

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Allowances proposed in lieu of official residences.

9th. It would, I take for granted, be neeessary to make the Offieers, who are to be deprived of their Houses, an Allowance to enable them to provide the neeessary Accommodation, supposing their Salaries to have been fixed with an Understanding that they were to oeeupy Government Buildings free of Expense. But any Allowance so granted need not be eontinued to any future Colonial Seeretary, and I should recommend the Allowanee for a House to the Chief Justice and Surveyor General being ineluded in their Salaries. I should also propose the Allowanees under present circumstanees to these Offieers being as follows, Vizt.:—

Chief Justiee, £250; Colonial Secretary, £200; Surveyor General, £150.

Aeeording to this, the utmost Expense would not exeeed £600 a year, and this might be Materially reduced if not entirely got rid of, when New Appointments should be made.

Proposed sale of house and office of surveyor-general.

10th. On the other hand, the Surveyor General's House and Office would be disposable, and, being both good Buildings and situated near Hyde Park, would, I have no doubt, produce a eonsiderable Sum, as Ground and Houses in Sydney sell at present at very high Priees.

Official residence of superintendent of police.

11th. There is still Another House in possession of one of the Civil Servants, whieh is oeeupied by the Principal Superintendent of Polieo; but, as, from its Situation, it is not available as a Publie Offiee, it is not neeessary to appropriate it otherwise than it is at present. It oeeupies however one of the most desirable spots* in Sydney, and, being a Commodious House, having lately undergone a thorough Repair, would, I have no doubt, sell very advantageously. Should this be ordered with a view of establishing the prineiple that None of the Civil Servants should be allowed Houses, which appears to me desirable, the Principal Superintendent of Polieo should, I think, be allowed £100 a year on this aeeount.

Special instructions to be awaited.

12th. I beg Sir to observe that, though I should Act on the proposed Arrangement, should any ehange take place in the Persons now holding the Appointments of Chief Justiee, Colonial Secretary or Surveyor General, I should not venture to Authorise the sale of the Surveyor General's House and Office without Speeial Instruetions to that effeet. I have, &c.,

Ra. Darling.

[Enclosure.]

[*A copy of the plan will be found in the volume of charts and plans.*]

* Note 58.

Right Hon. W. Huskisson to Governor Darling.

1828. 15 May.

(Despatch No. 27, per ship Albion; acknowledged by Governor Darling, 31st December, 1828.)

Sir, Downing Street, 15 May, 1828.

I have received your Dispatch of the 22nd of September last, reporting (with reference to the arrangements which you had made respecting the Custom House) the resignation by Mr. Onslow of the Situation of Searcher and Surveyor, and the appointment of Mr. Raymond in his place; and you take the opportunity of requesting to be informed, in case Mr. Raymond should not be confirmed in that Office, in what manner you are to dispose of him.

Resignation of A. P. Onslow and nomination of J. Raymond.

As the confirmation of the Appointment in question rests with the Lords of the Treasury, in pursuance of arrangements entered into on the part of my Predecessors with their Lordships, I am unable to do more in favour of Mr. Raymond than to communicate to them the circumstances under which he went out to the Colony, in the hope that they may not be disposed to disturb the arrangement which you had made. With reference, however, to that part of your Dispatch representing the perseverance with which Mr. Raymond considers himself and family as Dependents upon the Government, I have only to refer you to what my Predecessors have already stated upon that subject, in order that Mr. Raymond may be prepared to depend upon his own resources for the support of himself and his family, should he be eventually reduced to that alternative from his unfitness for any official employment which it may be in your power to confer upon him, and in the event of his not being continued in that which he now holds.

Instructions *re* J. Raymond.

I have, &c.,
W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 75, per ship Cape Packet; acknowledged by Sir George Murray, 20th December, 1828.)

Sir, Government House, 15 May, 1828.

I do Myself the honor to transmit for your information the accompany. Ground Plan and Elevation of the Female Factory at Parramatta, together with Copy of a Report prepared by Captain Dumaresq the Civil Engineer and one of the Committee of Management, explanatory of the additions and Alterations which have been found necessary with a view to the more complete Separation of the Classes and to that system of discipline which it had been deemed expedient to adopt.

Additions and alterations to female factory.

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Expenditure involved.

2d. The whole computed Expense (including the Charge for the maintenance of the Convicts employed and the Materials collected and prepared by them) of these additions and alterations is about £2,687 13s. 5d.; but the actual Money Expenditure is comparatively trifling, not exceeding £300, being chiefly for the purchase of Lime, which could not be conveniently procured by the means of Convict Labour.

Efficiency of establishment.

3d. I have now great satisfaction in Reporting that the Establishment is at length rendered as complete as could be expected; and I trust the efficiency of the Measures which have been adopted will be admitted, when it is considered so large a Number of Female Prisoners of the Worst Character (there being at this Moment 490 in the Factory, which is occasioned by the unusual importations which have taken place) the Refuse of the English and Irish Jails, are retained in subjection by an Establishment consisting of only *five* Women, "Vizt.":—

1 Matron, at the head of the Establishment; 3 Monitresses, one for each Class; 1 Portress,

in addition to whom two Men are employed, one as a Clerk, the other as a Storekeeper, the whole of whose Salaries together do not exceed *£430 a year.*

4th. In submitting this Statement to you, I presume to think, Sir, that no instance can be produced in any part of the world of a like Number of Prisoners being retained in due subjection by such slender means, or at so very trifling an Expense. And, as to the order and regularity of the Establishment, I may venture to assure you they cannot be surpassed.

Commendation of services of matron and committee.

5th. It appears unnecessary to say any thing more respecting the Establishment, further than that the Merit of the present Arrangements and of the excellence of the System, which has been so successfully adopted, belongs exclusively to the Committee of Management who are unwearied in their exertions, and to Mrs. Gordon, the present Matron, who has most Zealously performed the duties which attach to her very important Situation.

Transmission of half-yearly report.

6th. I now do myself the honor to forward for your information a Copy of the last Half yearly Report of the general Board, by which it appears that, although so unusual a Number as 504 Women had arrived from England and Ireland during the Year, the Actual encrease to the Numbers in the Factory at the termination of the Year did not exceed 137, so that 367 were distributed throughout the Colony over and above the Number that had been previously disposed of.

7th. Having closed my observations as far as regards the State of the Factory to the end of last Year, I am under the necessity

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Female convicts *per* ship *Elizabeth*.

of observing that the Establishment has received a very large and I must say inconvenient addition since the commencement of the present Year by the arrival of 192 Women in the Ship Elizabeth from Ireland. The Applications for these Women not being numerous, and this Ship having brought out at once double the Number usually embarked, it has had the effect of Crowding the Factory to excess, and, had it not been for the good order which is so well preserved in the Establishment, the Consequences would have been extremely embarrassing, there being no other place eligible for the proper accommodation of the Women.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

[*A copy of the plan will be found in the volume of charts and plans.*]

[Enclosure No. 2.]

Report on additions and alterations at female factory.

Report on the Alterations, etc., which have taken place at the Female Factory, Parramatta.

A Board having been appointed to report upon the State of the Female Factory and draw up and propose such regulations as appeared to them desirable, very considerable alterations and some additions were proposed to the Building in order to the Plan suggested by them being carried into effect.

The division of the Establishment into Classes was considered essential, and, to enable each to have their separate Kitchen, Workshops and other accommodations, several alterations became necessary; Store-keeper's Rooms and Offices, a Porter's Room, etc., were constructed at the Outer Gate, preventing the necessity of these people going inside the Building at all, the inner Gate being kept by a Portress.

The *Penal* part of the Establishment, the Penetentiary, being extremely crowded it became necessary to erect Workshops for them, also a Dining Hall, it being considered liable to cause disease, spinning Wool, eating and sleeping all in the same Rooms, which was before necessarily the case.

The accompanying Plan of the Building will shew the Alterations which have been made, being distinguished by the red lines by which will be seen the addition that has taken place to the Penitentiary.

To prevent the necessity of sending the Women outside the Building to obtain the supply of Water required, a Force Pump has been erected, and arrangements made for conducting Water to all parts of the Establishment, thereby obviating the necessity of there being any Intercourse between the different Classes.

The Surrounding Wall having been considered much too low, not being more than 11 feet, it has been heightened to about 16 feet.

I deem it unnecessary further to detail the alterations and additions that have been made, considering that they are better illustrated by the Plan which accompanies this report. I have a confident

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hope that, when the whole Plan shall be completely carried into effect, considerable benefit will be experienced in the Management of this Establishment.

WM. DUMARESQ, Civ. Engineer.

[Enclosure No. 3.]

Report of board for management of female factory.

REPORT of the Board for the Management of the Female Factory, as directed in His Excellency the Governor's Minute No. 123 for it's appointment, dated 12th August, 1826.

Female Factory, Parramatta, 2d January, 1828.

PRESENT:—The Honble. Alexr. McLeay; William Lithgow, Esqnire; The Reverend Samuel Marsden; Edward Lockyer, Esquire; George Thos. Palmer, Esquire; William Dumaresq, Esqnire; Lieut. De La Condamine; Matthew Anderson, Esquire.

The Board in pursuance of the Regulations have the honor to report for His Excellency the Governor's Information.

1st. The Nnmber of Women received into and discharged from the Establishment from the 1st of July to the 31st December, 1827, inclusively, is as follows:—

Prisoners In the Establishment 30th June		290
Received from—		
Princess Charlotte	21	
Harmony	13	
Louisa	29	
Private Service to 1st Class	167	
Do to 2d Class	29	
Do to 3d Do	254	513
Total		803
Discharged to—		
Private Service	378	
Free by Servitnde	3	
Escaped and not Apprehended	3	
Dead	4	
Married	13	
Returned to their Husbands	36	437
Remains 31st December, 1827—Women		366
Children in the Establishment 30th June		15
Increase		20
Remains 31st December, 1827—Children		35
Free Women, convicted in the Colony, in the Establishment on the 30th June, 1827		26
Received		61
Total		87
Discharged		57
Remains 31st December, 1827—Free Women		30
Do Prisoners		366
Total		396

It appears by the foregoing Statement that there has been an Increase in the Establishment during the last half year of 80 Women.

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15 May.

Report of board for management of female factory.

and in the whole year of 137, occasioned by the arrival of 504 Female Prisoners during that period, leaving a distribution of 367; there are, at present in the 1st Class unassigned, and *eligible for assignment*, 48, of which 26 are necessary in the Establishment as Servants, Overseers, etc.; the remainder are about to be sent to their assigned Service, are old, or infirm, or, being either pregnant or having young Children, cannot be sent away from the Establishment, though the number of Women in the Establishment is considerable, and much larger than the previous year, it is occasioned by Prisoners committed for offences, and cannot be diminished, except by Improvement in the morals of the People generally.

The Board beg leave to observe that there appears too great a Portion of Women sent into the 1st Class from Service, who it must be presumed have for the most part committed some offence, or they would not have been discharged; and, in so doing, it must prove injurious, as they are immediately eligible for reassignment; a statement of several cases of this description accompanies for His Excellency's more particular Information.

The Women appear in a most healthy State, no complaint having been made on the part of any of the Inmates; and the Board have much satisfaction in forwarding the Surgeon's Report, together with the Half yearly Return of the Sick, which they think will warrant their most favorable Representation.

The Establishment has been orderly with the exception of the disturbance some time ago in the Penitentiary, and, of the number which then escaped, only three are now at large.

The disclpline of the Establishment is considered to have been improved and is improving and the Regulations to have been enforced as far as practicable. It is however to be regretted that the arrangements of the Building are still incomplete though considerable advancement has been made; the entire Separation of the Classes therefore has not taken Place.

The Board have reason to be satisfied with the regularity and cleanliness observed in the Building, and have hopes, when the arrangements are completed, that much benefit will result from the order and regularity which can then only be enforced.

The Matron reports that Prayers for the Protestants have been regularly read morning and evening by herself, also for the Catholics under the observation of the Matron of the 1st Class, and that they are attentive. In the 3d Class also, the Matron has had divine Service regularly performed.

An Abstract of the Punishments during the half year is herewith transmitted; it appears there have been 312 Cases of punishment during that period, which, considering the Class of people and that there have been 890 Prisoners in the Establishment, the Board do not think excessive.

The Board have not yet been able to find a Clerk for the purpose of auditing the affairs of the Establishment.

Alexr. McLeay.	Geo. Thos. Palmer
Wm. Lithgow.	Wm. Dumaresq.
Samuel Marsden.	T. de la Condamine.
Edwd. Lockyer.	M. Anderson.

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Right Hon. W. Huskisson to Governor Darling.
(Despatch No. 28, per ship Albion.)

Sir, Downing Street, 16th May, 1828.

Despatch acknowledged.

I have the honor to acknowledge the receipt of your Dispatch of the 23rd of September last, accompanied by the following Estimates, vizt.:—

1. Estimate of the annual expense of defraying the Police Establishment according to the present scale of Salaries and Numbers.
2. Estimate of the annual expense of printing the Government Orders and Notices, Blank Forms and other Public Documents for the Government.

Qualified approval of estimates.

As these Estimates are accompanied by the assurance that you will lose no available opportunity of diminishing the expense of this part of the Establishment, and impressed with the importance of keeping up an efficient Police as the only effectual means of checking those irregularities, which must necessarily take place in a Community composed like that at New South Wales, I have recommended to the Lords Commissioners of the Treasury the propriety of admitting these Charges; but, as so many of your recent dispatches contain proposals for the increase of the Salaries of the Officers of your Government, I cannot omit this opportunity of observing that, although I have hitherto acquiesced in most of the arrangements which you have suggested for placing the Emoluments of those Officers upon a more liberal footing, yet you must not expect that an equally favorable result will attend all future recommendations to the same effect; and it will, therefore, be advisable that you should discountenance all applications which have a tendency to increase, without the most urgent necessity, the Civil Expenses of your Government.

I have, &c.,
W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 76, per ship Cape Packet; acknowledged by Sir George Murray, 27th November, 1828.)

Sir, Government House, 16th May, 1828.

Half-yearly issues of clothing to convicts.

I do myself the honor to acquaint you that the very serious inconvenience, which has been experienced, and the trouble imposed on the Public Departments by issuing Clothing to the Prisoners of the Crown at irregular periods, have induced me, with a view of simplifying the accounts and relieving the several Government Establishments from what appeared unnecessary trouble, to order the issue of the Clothing at two fixed periods in

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the year, Namely, on the 1st of May, being considered the commencement of the Winter Half Year, and, on the 1st of November, the period when Summer usually commences in this Country.

Half-yearly issues of clothing to convicts.

I do myself the honor to transmit for your consideration the Copies of two Minutes, which have been issued in consequence, the one regulating the issue of Clothing at the Penal Settlements, and the other to the Prisoners generally at other Establishments; and I trust you will be pleased to approve of the arrangements which have been made in this respect.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Minute No. 9.

Government House, 11th January, 1828.

Issue of clothing at penal settlements and out-stations.

The Prisoners at the Penal Settlements and detached Stations, specified in the Margin,* are in future to receive their Clothing at two Stated Periods in the Year, Vizt., on the 1st of May and the 1st of November. The Deputy Commissary General will in consequence forward, by the first opportunity to the respective Settlements, the Supplies of Clothing necessary for this purpose.

The Commandants will Muster the Prisoners on the above days, in the presence of the Principal Superintendent of Convicts and the officer or Person in charge of the Commissariat, and he will see each Man Supplied with a Sult of Clothing according to Regulations. The Officer in charge of the Commissariat will account for the Issue to the Deputy Commissary General, the Commandant affixing his Signature to the Muster Roll that each Individual was supplied in his presence.

The above Arrangement will relieve the Principal Superintendent of Convicts from any Charge and responsibillty with respect to the Clothing of the Prisoners at the Several Settlements and Stations above pointed out.

The Deputy Commissary General will forward Blankets from time to time to the above Settlements, that the Prisoners may be supplied agreeably to the Regulations on this Head.

Ra. Darling.

[Enclosure No. 2.]

Minute No. 23.

Government House, 20th February, 1828.

Instructions re half-yearly issues of clothing to convicts.

It appearing that the Regulations under which the Convicts employed by Government are now Clothed occasion great inconvenience and much unnecessary trouble to the Departments concerned, it becomes necessary to revise the same and to adopt a more simple method of issuing Clothing to the Prisoners of the Crown. Let it therefore be notified that hence forward all Prisoners Maintained by the Government are to receive their

* *Marginal note.*—Port Macquarie, Moreton Bay, Norfolk Island, Port Raffles, Melville Island, King George's Sound, Western Port.

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Instructions re half-yearly issues of clothing to convicts.

Clothing at two stated Periods in the Year, Vizt., on the 1st of May and 1st of November, without reference to the time when they may have been received upon the strength of any Establishment.

Prisoners, arriving from England in the Month of April or October, will not however be entitled to Clothing on the day of Issue immediately following, for, having received a complete Suit on landing, it is presumed that they cannot require it.

The Superintendents of Convict Establishments will Muster the Prisoners under their Charge on the above Days respectively, in the presence of an Officer of the Commissariat, whenever it is possible, who will see each Man supplied with a Suit of Clothing according to Regulations, and affix his Signature in the Muster Roll, certifying that each Individual has been supplied in his presence.

In order to provide for the Regular Issue of Clothing to the Prisoners on the days Appointed, the Principal Superintendent of Convicts will be responsible that the several Convict Establishments are duly supplied, and it will be his Duty to require of all Persons, in the immediate Charge of Convicts, an Account of the manner in which the Clothing so forwarded has been applied, within One Month after each issue.

It is not intended that the above should interfere with the Regulation laid down in Minute No. 9 of the present Year, neither will it apply to the Boys at the Carters' Barracks, who receive Clothing under the Regulations laid down in Memorandum, dated 6th December, 1826.

RA. DARLING.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 29, per ship Albion.)

17 May.

Despatch acknowledged.

Sir, Downing Street, 17 May, 1828.

I have the honor to acknowledge the receipt of your Dispatch of the 25th September last reporting the Death of Mr. Holland, Commissioner of the Courts of Requests, and the arrangements which you had made in consequence for the performance of the duties of that Situation.

Approval of H. G. Douglass as commissioner of courts of requests.

I have much pleasure in acquainting you that His Majesty approves of the transfer of Dr. Douglass from the Office of Clerk of the Council to that of Commissioner of the Courts of Requests, the duties of which he had before discharged to the satisfaction of your Predecessor.

Clerk of council to be appointed in England.

I am prevented, however, from complying with your request in regard to the vacant Office of Clerk of the Council, to which you are desirous of nominating; as the very circumstances which induce you to make the application are those which render it necessary in my opinion that the Appointment should be filled by a person sent out from England, who, from being unconnected with any of those parties which have already occasioned so much embarrassment to your Government, would be able to enter upon his duties with much greater prospect of advantage to the Public than if those duties were to be placed in the hands of one selected in the Colony,

however desirable in other respects may be the arrangement which you may intend to recommend. I have accordingly appointed Mr. Edward Deas Thomson to be Clerk of the Legislative and Executive Councils, with a Salary at the rate of £600 per annum, which (although so much less than that originally attached to this Situation) I consider fully adequate for any duties which he will have to perform. As you will probably have found it necessary to make some temporary arrangement for discharging these functions, I have acquainted Mr. Thompson that he will not receive any part of his Salary until he shall have arrived in the Colony.

1828. 17 May.

E. D. Thomson appointed clerk of councils.

With respect to the Sum which you have authorized to be issued from the Colonial Treasury for the passage of Mrs. Holland to England, I have, under the circumstances of the case, to approve of the measure; but, as Mrs. Holland's application appears to have been made as well as to have been granted upon the ground that the same principle was adopted for providing the means of conveyance to England of the family* of the late Mr. Butler, Registrar of the Supreme Court of Van Diemen's Land, who died soon after his arrival there; and, lest you should be induced to follow the same course, should a similar misfortune occur to any person hereafter, I think it necessary to state that, in the case above adverted to, the person who succeeded to the vacant Office gave up a portion of his Income in order to its being appropriated to the purpose in question, so that on the former occasion, which, I apprehend, is not the case on the present, no additional expense resulted to the Public from the arrangement.

Approval of payment to M. Holland.

Incorrect precedent quoted.

I have, &c.,

W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 77, per ship Cape Packet; acknowledged by Sir George Murray, 27th November, 1828.)

Sir, Sydney, 17th May, 1828.

I do myself the honor to submit for your consideration whether it might not be advisable to permit the Officers in the Service of the East India Company to receive Land in these Colonies, under similar Regulations† to those established for the Officers of His Majesty's Navy and Army.

Proposed concessions to officers of E.I. company.

2nd. It appears to me it would prove very advantageous as holding out encouragement to those Officers to settle here, who, on their retiring from the Service, are in general possessed of considerable pecuniary means, and the introduction of Capital in the present State of the Colony being a matter of much importance.

* Note 59. † Note 60.

1828. 17 May.

Proposed concessions to officers of E.I. company.

3d. I have understood that the measure proposed would be likely to induce several Officers of that Service to retire to these Colonies, instead of retiring Home, and some of them have requested their Friends here to ascertain whether there was any probability of the indulgence alluded to being extended to them in the event of their doing so. I have, &c.,

RA. DARLING.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 30, per ship Albion.)

18 May.

Refusal of claim for compensation from G. Cookney.

Sir, Downing Street, 18 May, 1828.

I have received your Dispatch of the 27th September last, forwarding a Memorial addressed to the late Secretary of State by Mr. George Cookney, who formerly held the Situation of Colonial Architect; and I have to desire that you will acquaint this Gentleman that I do not consider that there is any ground for the claim for compensation, which he has brought forward; but that, even had there appeared to be any hardship in his case from the circumstance of his services having been discontinued, I should not have been disposed to acquiesce in his receiving any further Sum than that which you have already caused to be issued to him. I have, &c.,

W. HUSKISSON.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 31, per ship Albion.)

19 May.

Approval of employment of J. T. Morisset.

Sir, Downing Street, 19 May, 1828.

I have received your Dispatch of the 23rd October last, reporting that you had, in pursuance of the intention expressed in a previous Dispatch, appointed Lieutenant Colonel Morisset to the temporary charge of the Police Department. I see no objection to the manner in which you have disposed of the Services of this Officer; but, as the arrangements of the Lords Commissioners of the Treasury, connected with the Department of the Customs, have not admitted of their confirming Captain Rossi in the Office of Comptroller, I apprehend that it will become necessary for the latter Officer to resume the duties of Superintendant of Police, in which case I fear Colonel Morisset must proceed to Norfolk Island to take upon himself the duties of Commandant, as originally intended. The reasons, however, which induced you to retain Colonel Morisset at Sydney so long as you had the means of employing him there, are satisfactory, and such as would have led to my directing that you should

Instructions *re* F. N. Rossi and J. T. Morisset.

abstain from carrying into effect Lord Bathurst's Instructions with respect to this Appointment, had there appeared to me to be any other mode of disposing of that Officer, without adding unnecessarily to the public Expense. I have, &c.,

1828. 19 May.

W. Huskisson.

Right Hon. W. Huskisson to Governor Darling.

(Despatch No. 32, per ship Albion.)

Sir, Downing Street, 21 May, 1828. 21 May.

I have the honor to acquaint you, in reply, to your Dispatch of the 26th of October, that the Appointment which you have therein reported of Mr. John Stephen to succeed the late Mr. Campbell as one of the Commissioners for apportioning and valuing the Land of the Colony is approved by His Majesty's Government. I have, &c.,

Approval of appointment of J. Stephen.

W. Huskisson.

Right Hon. W. Huskisson to Governor Darling.

(Despatch No. 33, per ship Albion.)

Sir, Downing Street, 22nd May, 1828. 22 May.

I have received your Dispatch No. 111 of the 1st November last, enclosing a Statement of the Monies received by the Collector of Internal Revenue for a period of Six Months, amounting to the Sum of £16,526 9s. 7¾d. and expressing your hope that the gross amount and number of distinct heads of collection will appear fully to justify the arrangement which you had previously proposed.

Statement of internal revenue for six months.

In my reply to your Dispatch of the 7th of April, I acquainted you with the grounds on which I deemed it advisable to direct that you should adhere to the Instructions conveyed to you by the late Secretary of State, regarding the employment of an Officer of the Surveyor General's Department to perform this particular duty, and I am sorry that I do not now see any reason for altering the opinion which I then expressed upon that subject. I am, &c.,

Quit rents to be collected by officer of survey department.

W. Huskisson.

Governor Darling to Under Secretary Stanley.

(Despatch per ship Cape Packet.)

Sir, Sydney, 22nd May, 1828.

With reference to my Despatch No. 36 of the present Year, transmitting a List of Convicts, who were desirous that their Wives should be sent to this Colony, I do myself the honor to

Passages for wives of convicts.

1828. 22 May.

Absconding of J. Bow.

acquaint you that one of the Individuals named (John Bow by the Ship Asia 4) has recently absconded from the Colony, and I therefore beg that his Wife may not be allowed a Passage by the Government.

I have, &c.,
Ra. Darling.

Right Hon. W. Huskisson to Governor Darling.
(Despatch No. 34, per ship Albion.)

23 May.

Sir, Downing Street, 23 May, 1828.

Approval of purchase of court-house at Campbell town.

I have received your Dispatch of the 2nd November last, reporting the circumstances under which it had become necessary to incur an Expenditure amounting to the Sum of £1,300 for the purchase of a House at Campbell Town for the purpose of holding the Quarter Sessions and Courts of Requests there, including the expense of making the necessary alterations in the Building in order to provide accommodation for the Detachment of Mounted Police stationed in that Town.

Although the Sum seems to be large for which the Premises have been purchased, yet the agreement entered into with the Parties, by which they have consented to receive payment in Land, removes any objection which His Majesty's Government might, otherwise, have entertained to the measure on account of the expense; and I have, therefore, much pleasure in acquainting you that the purchase in question, with a view to the object pointed out in your Dispatch, is accordingly approved.

I have, &c.,
W. Huskisson.

Governor Darling to Right Hon. W. Huskisson.
(Despatch marked "Private," per ship Cape Packet.)

Sir, Sydney, 23rd May, 1828.

Transmission of pamphlet by Revd. S. Marsden.

I beg leave to enclose a Pamphlet,* which the Reverend Mr. Marsden has just published, being a Statement of his Case, which is similar to that contained in the Letter I have transmitted to you officially with my Despatch No. 67 by this opportunity at the desire of that Gentleman.

Criticism of acquittal of H. G. Douglass.

Though I have not before adverted to the Investigation, which is the subject of the present communication, I have never been satisfied with respect to the proceedings or Dr. Douglass's Acquittal.† From the State of Parties at the time of my Arrival, I thought it necessary to the public peace not to interfere with past Events, and entertaining the hope that the effects might by silence gradually subside and in time be altogether forgotten. Being disappointed in this expectation, I feel that I cannot, consistently with what is due to myself and the representations I

* Note 46. † Note 61.

have from time felt it my duty to make respecting Mr. Forbes and Doctor Douglass, abstain on the present occasion from requesting your attentive perusal of Mr. Marsden's Statement. You will then judge of the justice of Doctor Douglass's Acquittal and more particularly of the principles and rectitude of the Chief Justice, who conducted and managed the Proceedings; and I cannot hesitate to think that the inference will be strongly in support of the representations I have made respecting these Individuals. 1828. 23 May. Criticism of acquittal of H. G. Douglass.

It may not be irrelevant to observe that the Proceedings in this Case appear to furnish additional reasons to those I have already given, why the Chief Justice or any Person of that Profession, high in Authority, should not be a Member of Council. Objections to chief justice as member of council.

The influence of such Person must preponderate. There are few who would oppose their opinions to those of a Chief Justice, who by management, as Mr. Forbes always does, might give almost any question brought forward a legal Character, either immediately or in its result, and secure to himself the disposal of the Case though apparently determined by the Council. I can only repeat that, as this Government is at present constituted, the Chief Justice is in effect the ruling Authority. Paramount power of chief justice.

I have, &c.,

Ra. Darling.

Lord Francis Leveson Gower to Governor Darling.

(Despatch per ship Eliza; acknowledged by Governor Darling, 21st January, 1829.)

Sir, Downing Street, 24 May, 1828. 24 May.

I am directed by Mr. Secretary Huskisson to acquaint you that, in consequence of the representations contained in your Letter of the 3rd November last, respecting the inefficient state of the Veteran Companies, he recommended to the General Commanding in Chief the propriety of those Corps being disbanded, or at least such parts of them as you might think proper; and you will accordingly receive directions from the Horse Guards upon that subject. Veteran companies to be disbanded.

I have, &c.,

F. Leveson Gower.

Lord Francis Leveson Gower to Governor Darling.

(Despatch per ship Competitor.)

Sir, Downing Street, 24 May, 1828.

An application having been made to the Secretary of State by the Marquis of Sligo and by Mr. James Browne, M.P., for an extensive Grant of Land in the interior of New South Wales, in the cultivation of which they propose to expend Land grants for marquis of Sligo and J. Browne.

1828. 24 May.

Land grants for marquis of Sligo and J. Browne.

considerable funds and to employ resident Agents and Overseers in superintending the same, and, Mr. Huskisson having acceded to their request, I am to signify to you his desire that a Grant of 10,000 Acres may be made to each of those Gentlemen, in such part of the Interior of the Colony as may be fixed upon by the person who may be commissioned to make the selection on their behalf, with a reservation to each of the parties of 10,000 adjoining Acres for the purpose of being granted to them respectively when the original Grant shall be brought into full and successful cultivation; and I am to request that you will cause every facility to be afforded to the Agent who may be employed upon this occasion.

It is of course to be understood that the Land in question can only be granted according to the principle and upon the conditions upon which Land is granted to ordinary Settlers.

I have, &c.,

F. Leveson Gower.

Lord Francis Leveson Gower to Governor Darling.*

Sir, Downing Street, 24 May, 1828.

Land grant for T. Kent as reward for export of extract of wattle bark.

This letter will be presented to you by Mr. Thomas Kent, who is about to proceed to New South Wales for the purpose of carrying into effect a project, which he had formed, of preparing for exportation from that Colony an Extract from the Mimosa Bark to be used in the process of Tanning. When Mr. Kent first brought this subject† under the consideration of the Secretary of State, a promise was made to him that, besides the indulgence of Tonnage for his Machinery, etc., he should receive on his arrival in the Colony a Grant of Land consisting of 5,000 Acres, and that 5,000 Acres in addition should be reserved to be made over to him, whenever he had exported 50 Tons of the Extract in question from his former Grant; and I was directed by Mr. Secretary Huskisson to desire that you will make to Mr. Kent a Grant of Land, in pursuance of this arrangement, upon the usual terms, affording to him every facility in the selection of it that may be consistent with existing regulations.

I am, &c.,

F. Leveson Gower.

Governor Darling to Under Secretary Stanley.

(Despatch marked "Private," per ship Cape Packet.)

Sir, Sydney, 24th May, 1828.

Reasons for transmission of statement by Revd. S. Marsden.

1st. I should not venture to trouble you with the enclosed printed Statement‡ of the Reverend Mr. Marsden's Case, were I not desirous of satisfying His Majesty's Government that the

* Note 3. † Note 62. ‡ Note 46.

conduct of Chief Justice Forbes and Doctor Douglass stands impugned on other testimony than mine for Acts not very creditable to their Character, before I was entrusted with the Administration of this Government. 1828. 24 May.

2nd. Without entering particularly into the merits of the Question, it would appear to be pretty well established, by the Correspondence between the Court of Enquiry and the Reverend Mr. Marsden, that the Court would not allow or afford him an opportunity of proving what he stated he was prepared to prove and could have supported by the most incontrovertible Evidence, the immediate Parties, because he would not produce a Statement, which it was in fact impossible he could produce. Refusal of evidence tendered by Revd. S. Marsden.

3rd. In speaking of the Court, I allude more particularly to Mr. Forbes, as the subject referred to its consideration, being of a legal Character, it is probable the other Members were deterred from interfering, and I must think that the Proceedings fully establish his, Mr. Forbes, having prostituted his public Situation to answer Party purposes. Allegations against F. Forbes.

4th. Let this be coupled with the assertions contained in his Letter* to Mr. Huskisson, dated the 26th February last, on the subject of the Appointment of Mr. John Stephen as Registrar, that *I did him the honor to forward to your Office, the Draft of the New South Wales Bill in October, 1826*; and further that he received my Letter on the subject of that Appointment at the time when the Appointment was under his Judicial Consideration, both being directly contrary to the fact, as is shewn by my "Remarks" on his Statement, transmitted with my private Letter dated the 28th of February; and there can be but one opinion as to the Character and eligibility of the Man for the high and important Station, he unfortunately holds at this moment. Written misstatements by F. Forbes.

5th. It is rumoured that Dr. Douglass, who is also the subject of Mr. Marsden's Pamphlet, has been busy in obtaining Statements and Depositions with respect to my conduct. I should be indifferent respecting any attempts he might make, if I had an opportunity of ascertaining the nature of them. But, as he has made no communication to me on the subject, I take for granted he will be referred to the Notice, published some time since by Earl Bathurst's orders, directing that all Charges or Representations against the Government should be transmitted to the Secretary of State thro' the Governor. Anticipated counter-charges from H. G. Douglass.

6th. I also understand that Doctor Douglass complains of the ill treatment he has experienced respecting his Land. I assure you he has not the slightest cause, tho' he may think himself aggrieved, because the Regulations have not been broken to Unfounded complaints by H. G. Douglass re land.

* Note 63.

1828. 24 May.

answer his private Interest. I would ask him on what ground he considers himself entitled to complain. Whether in being permitted to leave the Colony, as the Possessor of upwards of 8,000 Acres of Land (besides other Lands obtained from Individuals) having had Authority to purchase 5,000 more from the Government, which he now appears to have declined, because he was not allowed to select this quantity, contrary to Regulation and having actually disposed of all his Stock. So that, altho' a considerable Landed Proprietor, he possesses no Capital in the Country and is further in debt to the Government for 4,000 Acres of this Land purchased in the Year 1825, and also owes a large Quantity of Wheat on account of *Clearing Gangs,* obtained from Government on certain conditions,* which he has failed to fulfil, and which Gangs were employed to clear the Land in question.

Indebtedness of H. G. Douglass to government.

Public opinion *re* H. G. Douglass.

7th. You may judge, Sir, from this Statement of Dr. Douglass's claim to attention. I will further assure you, that no man ever left a Country, who was less regretted. He is respected by no one, not even by those who made use of or associated with him; and his Character is held in universal contempt, as a busy, intriguing fellow, who, having arrived here as an Assistant Surgeon on Half Pay about Six Years ago, is now retiring from the Colony, having realised in this short period an Income of £1,000 a Year, being besides in possession of considerable Landed Property.

Advantage in departure of H. G. Douglass.

The Community will be materially benefitted by his departure, and I hope soon to rid the Service of another of the same faction and of an equally mischievous but a more turbulent Character. I allude to Captain Robison of the Veteran Companies, whom I intend to bring to Trial by a Court Martial, his conduct being of a very dangerous tendency. I consider it a misfortune to have had this task imposed on me; but, as a public duty, I shall not shrink from it, feeling that I shall benefit the Service by relieving it from such unworthy Members.

Proposed court-martial on R. Robison.

Use made by F. Forbes of J. Mackaness.

8th. Having in my Letter of the 3rd April to the Secretary of State, marked "Separate," adverted to the Letter† written by Mr. Mackaness to Mr. Forbes, in which he intimates that he is about to leave the Colony immediately, I might have stated I had been informed that that Letter was written at the desire of Mr. Forbes, in the hope of diverting my attention from the circumstance of his having been concerned in preparing the Charges against me, which Captain Robison had transmitted Home. This is in some degree confirmed, as Mr. Mackaness does not appear to have any intention of leaving the Colony, tho' there have been several opportunities and his compliance

* Note 64. † Note 65.

with Mr. Forbes's wishes in writing a Letter of the Character, alluded to, will account for the Certificates which I understand Mr. Mackaness has received and transmitted Home from the Chief Justice and Mr. Justice Stephen, of the correct and satisfactory manner in which he performed his duty as Sheriff. 1828. 24 May.

9th. I take the opportunity of mentioning, before closing my Letter, that Captain Robison has acknowledged that he did transmit representations against me to his Friends, in order to their being communicated to the Secretary of State and his obtaining the necessary redress. His Offence is the same, whether his Friends communicate his Representations or not, as the Subterfuge of not having forwarded them direct cannot avail him. Admission by R. Robison *re* transmission of charges.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY STANLEY.
(Despatch per ship Cape Packet.)

Sir, Sydney, 25th May, 1828. 25 May.

Mr. Wilmot Horton having requested, in a Letter under date of the 20th October last, that I would report my opinion of an Expedition proposed by Mr. Ballantyne for exploring the Interior of New Holland, I am induced to state to you, without entering into the details of Mr. Ballantyne's proposition,* that I should not conceive the object would justify the Expence and that the Undertaking would be attended with infinite difficulty and hazard. Objections to proposed explorations by J. Ballantine.

I have had it in contemplation for some time past to employ an Officer† in this Service, who has expressed a strong desire to undertake it; but I have been prevented detaching him by the want of Officers to carry on the duties of the Garrison. I entertain the hope however that circumstances will soon permit of my availing myself of his Services. Proposed exploring expedition.

I take the opportunity of adding that Mr. Cunningham the Botanist is about proceeding on another Expedition, in order to ascertain and lay down the Country from the Northern Extremity of his last Tour, as reported in my Despatch No. 119, dated the 12th Novr., 1827, to Moreton Bay. Explorations by A. Cunningham.

I have, &c.,
RA. DARLING.

RIGHT HON. W. HUSKISSON TO GOVERNOR DARLING.
(Despatch No. 35, per ship Albion.)

Sir, Downing Street, 26 May, 1828. 26 May.

I have received your Dispatch of the 12th of November last No. 118, in which you state that the remaining part of the

* Note 66. † Note 67.

1828. 26 May.

Detention of military detachments.

Buffs, which were at New South Wales, would immediately proceed to Calcutta, but that you had found it necessary to retain two detachments of the 30th and 47th Regiments to supply their place; and as it does not appear that, under the circumstances of the case, you had any other alternative to adopt, it only remains for me to direct you to send home the Detachments in question as soon as you shall find it possible to spare them.

I have, &c.,
W. Huskisson.

Lord Francis Leveson Gower to Governor Darling.
(Despatch per ship Competitor.)

Sir, Downing Street, 26th May, 1828.

Report requested *re* E. Hardinge.

I am directed by Mr. Secretary Huskisson to transmit to you the accompanying Copy of a letter from Mary Hardinge, soliciting information relative to the fate of her Son, formerly a Private in the 98th Regiment, whom she states to have been transported from the Cape of Good Hope in the Year 1827; and I am to request that, should the Individual in question be now in New South Wales, you will transmit the desired information.

I have, &c.,
F. Leveson Gower.

[Enclosure.]

[*This petition has been omitted as unimportant. The private's name was Edward Hardinge.*]

Governor Darling to Under Secretary Stanley.
(Despatch per ship Cape Packet; acknowledged by under secretary Twiss, 30th November, 1828.)

Sir, Sydney, 26th May, 1828.

Instructions requested *re* order of precedence.

I request to be informed whether any Order of Precedence has been established for the Colonies, which might be considered applicable to this Colony, or what rule it might be proper to observe in this respect.

It is directed by the New South Wales Act that the Members of Council, the Legislative Council only being in contemplation at the time, shall take Precedence next after the Judges of the Supreme Courts (and the Commander in Chief), there being at the time no other Judge but the Chief Justices of this Colony and Van Diemen's Land. It therefore appears necessary to determine, whether the Members of both Councils, the Executive and Legislative, take precedence of the Puisné Judges as in India (where the Council performs the double function), two

Puisné Judges having been appointed to this Government since the framing of the New South Wales Act. Considering the Rule established in India in this respect as unobjectionable, I have usually observed it, though I think the Members of the Executive Council only should take precedence of the Puisné Judges. 1828. 26 May.

The Orders, which had been received here previous to my Arrival, direct that the Members of Council shall wear a particular Uniform.* I beg to be informed whether I am correct in supposing this to apply to the Executive Council only, being composed of Officers in the Service of Government? Uniform for members of council.

I am aware of the difficulty of arranging in a satisfactory manner the precedence of the Officers of the Civil Service, and should therefore be very glad if it were regulated at Home.

I should be disposed to class the Principal Officers as follows; but I do not pretend to much knowledge in these matters, Vizt.:— Precedence proposed by R. Darling.

The Attorney General; Sheriff; Surveyor General; Treasurer; Auditor; Solicitor General; Collector of Customs; Collector of Internal Revenue; Principal Surgeon; Civil Engineer; Clerk of the Council; Commissioner of the Courts of Requests.

I have only further to request you will be pleased to inform me whether Persons having Rank in England should take precedence of the Members of the Executive and Legislative Councils?

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 78, per ship Cape Packet.)

Sir, Government House, 27th May, 1828. 27 May.

I do Myself the honor to transmit for your consideration the accompanying Copy of a Report from the Civil Engineer respecting the New Jail,† the Building of which was commenced during Sir Thomas Brisbane's Government, but from want of means was discontinued, the external Walls and Drains only having been completed as appears by the Report, and I beg to receive your commands as to the further progress of the Building. Instructions requested *re* new gaol.

2d. The Civil Engineer it will be seen has expressed an opinion, that Persons may probably be found who would undertake its completion by contract, if assisted by the Government with a portion of Convict Mechanics. This assistance can of course be rendered, as it is very desirable to get rid of the Mechanics who have been retained only until Contractors could be Proposed completion of gaol by contract.

* Note 68. † Note 69.

1828. 27 May.

found who might be depended on to perform their engagements. But the Mechanics and Artificers retained in Sydney are by no means to a large Amount, as will be seen by the accompanying List, and are in fact not equal to keep the existing Buildings, which in general were originally badly constructed, in repair.

Necessity for new gaol.

3d. I beg at the same time to observe that the completion of a portion of the New Jail is urgently required. The old one is very insecure, and from its delapidated state is constantly under repair, and has uniformly been made a subject of Presentment by the Grand Juries which have visited it. The Ground* on which it stands is extensive, and, from its local situation, would I am satisfied sell for a considerable Sum.

Public buildings required.

4th. You will perceive, Sir, by the Engineer's Report that these other Buildings, and some of them on an extensive Scale, such as the Custom House for example, which are also necessary to the Public Service. The Country Magistrates are very pressing respecting the Court Houses. But, from the want of means to complete them and the impossibility of obtaining substantial Contractors, I have deferred making any application on the subject.

Estimates to be submitted.

5th. I have directed the Engineer to prepare an Estimate of the Expense for completing the Jail as far as be necessary for immediate purposes, which I shall do myself the honor to transmit by the next opportunity; but it may not be possible to obtain a Contract according to any estimate to be made out by the Officers of Government.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Report on state of new gaol.

Report on the present state of the New Gaol commenced in the neighbourhood of Sydney.

1. The Plan, on which this Gaol has been laid out, is that of the published design of Mr. Ainslie.

2. The whole of the Drains necessary to the Building are nearly completed in a very sufficient manner, also the excavation required for the foundations of the Buildings.

3. The circumscribing Wall enclosing an Area of 400 feet square, the entrance under an Archway with a Porter's Lodge on each side is finished with the exception of the Pediments to the latter. The Wall is 21 feet high and two feet six inches thick, exclusive of the external Piers.

4. The Work hitherto done is substantial and well executed, and is estimated to be worth (if Valued at the price of Free Labour in the Colony) at least £11,000.

5. It appears to me the entire Plan of Mr. Ainslie's Gaol is larger than the necessities of the Colony at present call for; but it possesses the advantage that it may be limited in its extent, by only commencing with two or more of the Wings, until the whole is successively completed, as the wants of the Colony encrease.

* Note 69.

6. The present disposable means of the Government is by no means calculated to carry on a Building of this nature, in conjunction with the other pressing demand for Labour in keeping in repair and replacing worn out Buildings. 1828. 27 May.

7. Many are of Opinion the period is arrived when Works of this nature may be undertaken by Contractors, and I am disposed to support it, if the Government will give some assistance in the Loan of Mechanics. Proposed erection of public buildings by contract.

8. This measure would I imagine be more congenial to the feelings of the Inhabitants than the retention of the Government Establishments of such Numbers of Mechanics as would be required in such undertakings as this Gaol, and a New Custom House, which is much required, besides many Buildings in Country Places, Vizt., Court House at the Stone Quarry Creek; do Penrith; do Wallis Plains or Paterson's Plains; do Parramatta; Jail at do.

All requiring Buildings in which the Public Business should be conducted.

W. Dumaresq, Civl. Engineer.

Engineer's Office, 26th May, 1828.

[Enclosure No. 2.]

Return of Mechanics of the undermentioned Trades attached to the Engineer Department, Sydney. Return of mechanics in engineer department.

Carpenters, 29; Painters, 3; Plumber, 1; Blacksmiths, 12; Stone Setters, 4; Stone Cutters, 10; Bricklayers, 9; Brickmakers, 12; Plasterers, 5; Quarrymen, 8; Total, 93.

Wm. Dumaresq, Civl. Engr.

Engineer Office, 29th May, 1828.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 79, per ship Cape Packet; acknowledged by Sir George Murray, 23rd December, 1829.)

Sir, Government House, 27th May, 1828.

I do myself the honor to forward for your information the accompanying Copy of a Report from the Civil Engineer, with a Plan and Elevation of the Public Hospital erecting at Liverpool, though I conclude every necessary Communication was made by the Government previous to the Work having been undertaken. Erection of hospital at Liverpool.

2d. As this Building was ordered during Governor Macquarie's Administration and commenced in Sir Thomas Brisbane's, it did not appear to me necessary to make any report on the Subject after my arrival, having merely continued the Work I found in progress at the time. When completed it will certainly be a most Valuable Building. It is both substantial and elegant, affording every accommodation that can be required for a numerous body of Sick. As to the necessity of an Hospital on such a Scale at Liverpool, there may be some doubt, there being already a very commodious one at Sydney. But, as this is going rapidly to decay, I should propose, when the Hospital at Liverpool is completed, to transfer the principal Establishment to that place, Proposed transfer of Sydney hospital.

1828. 27 May.

which was probably Governor Macquarie's intention, and appropriate a part of the Hospital in Sydney to some other purpose, concluding it will always be necessary to keep an Establishment of this Nature, though on a smaller scale at the Seat of Government. One of the Wings of this Building* is at present occupied as an Hospital by the 39th Regiment and has for some time past been appropriated to one of the Corps in Garrison.

Military hospital at Sydney.

Liverpool hospital to be completed.

3d. I propose completing the Hospital at Liverpool according to the Original Plan, which I conclude was duly communicated to the Secretary of State at the time and approved, though I conceive it may be occupied if required before the Wings alluded to in Paragraph 3 of the Report are built.

System of hospital administration.

4th. While on the Subject of the Public Hospitals, I would request to be informed of the intentions of His Majesty's Government in this respect; Whether Hospitals are to be kept up on the present system? According to the existing practice, the Settlers send in their Servants to the Nearest Hospital, where they remain at the Expense of Government until recovered and discharged, when they are returned to their Master.

Hospitals maintained by government.

5th. There are Hospitals at—

Sydney; Parramatta; Windsor; Liverpool; New Castle and Bathurst

independent of those at the Penal and other Settlements on the Coast. These were no doubt formed in the first instance in consequence of the Government Establishments at those places, and the Inhabitants and Settlers were allowed to make use of them. But the necessity of keeping them up, when the Government Establishments have been discontinued, merits consideration.

Hospital at Windsor.

6th. I am induced to ask the question more immediately with reference to Windsor, where the Surgeon's House is no longer habitable and the improper Scite of the Hospital, which is also in a State of Decay, has been frequently represented to me; being desirous of receiving your commands whether other Buildings should be erected in their Room and the Surgeon continued, there being no Government Establishment at Windsor which can render it necessary.

Necessity for independence of settlers.

7. The discontinuance of this Hospital or indeed of any other would no doubt occasion inconveniance to the Settlers, but it appears to me the Colony is now sufficiently advanced, the period is arrived, when the Settlers should be taught to think for themselves and not look to the Government to be supplied with whatever they require.

I have, &c.,

Ra. Darling.

* Note 70.

[Enclosure.]

1828.
27 May.

REPORT on the New Hospital at Liverpool now in progress, according to the accompanying Plan and Elevation.

Report on new hospital at Liverpool.

1. This Building I am led to understand was originally determined on by Governor Macquarie, but the Plan, on which it is now being Built, was approved and commenced by Sir Thomas Brisbane, at whose departure from the Colony the Walls were up, and the Roof in some forwardness, since which time the Building has been gradually carried on.

2. The Number of Mechanics employed at present is 20, and Labourers in making Bricks, Quarrying Stone, etc., is 31 in addition.

3. I am in much hopes that, in about Six or Nine Months, the Building, as shewn in the Plan, will be ready for occupation; but I have to remark that, in the original Plan, Two Wings were designed and a Building behind the centre for a Kitchen; one of the Wings for the Quarters of the Medical Attendants, the other for a Dispensary, Stores, etc.

4. The Establishment is calculated to contain One Hundred and twenty Patients; and, in the event of a pressing necessity, about Ninety more may be received.

5. It is substantial and well Built, and when completed will be a very handsome Establishment.

WM. DUMARESQ, Civil Engineer.

Engineer's Office, 26 May, 1828.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 80, per ship Cape Packet; acknowledged by Sir George Murray, 12th December, 1828.)

Sir, Government House, 28th May, 1828. 28 May.

I have to report the death of Mr. Oxley, the Surveyor General, which took place at Kirkham, his Country residence, on the 26th instant, and I do so with the more regret as his loss as a public Officer, who had filled one of the most important Situations under this Government during a period of Sixteen Years, will long be felt. Death of J. Oxley.

2d. Mr. Oxley had been in a declining state of health for some considerable time past, his constitution having been materially injured by the privations which he suffered during the Several Expeditions* on which he was employed in exploring the Interior, but more particularly on the last, which continued for a period of Six months, when his sufferings, from the want of proper food, were of more than an ordinary character. Health impaired by explorations.

3d. It will be my duty, Sir, to bring under your consideration by the next opportunity the situation of Mr. Oxley's Widow and Family, in order that they may receive such aid as may be necessary to their support, and to mark the sense which His Majesty's Government entertains of Mr. Oxley's services. Proposed pension for widow.

I have, &c.,

RA. DARLING.

* Note 71.

1828.
28 May.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch marked "Separate," per ship Cape Packet; acknowledged by Sir George Murray, 6th January, 1829.)

Sir, Sydney, 28th May, 1828.

Money due on purchase of land.

Having adverted, in my Despatch No. 6 dated the 8th of January last, to the large Sum due to the Government for the purchase of Land in the Year 1825, during Sir Thomas Brisbane's Administration, I now do myself the honor to transmit for your information a Copy of a Memorial, which I have received from several Individuals, declaring their inability to pay the Balance due and requesting they may be allowed to retain the Land so purchased on such other terms as may be adopted for the disposal of Land under present circumstances.

Inability of landholders to pay.

Not considering myself at liberty to alter the conditions on which they had agreed to purchase the Land from the late Government, and being further of opinion that it is desirable the Public should be taught to understand that the Engagements, they enter into with the Government, are something more than mere matter of form and not liable to be broken as they may find convenient, I addressed a Letter in Answer to their Memorial, agreeably to the enclosed Copy. I have not received a reply and am informed they have not taken any Steps to avail themselves of the indulgence held out.

Concessions offered by R. Darling.

Debts due on "clearing gangs."

I should observe that several of these Individuals, amongst whose names will be found some of the greatest Landed Proprietors in the Colony, are also largely indebted on account of the Employment* of "Clearing Gangs" on their Estates, but who do not appear to have any intention of paying what they owe to the Government. I have in consequence desired it to be intimated to such persons, applying for Land, that His Majesty's Government has laid it down as a Principle that Land can be granted only in proportion to the available Capital which the Applicants possess, and that Persons in Debt to the Government can therefore have no claim to additional Land. It will be seen that, although this may prevent the improper accumulation of Land in the hands of such Individuals, it possibly may not have the effect of inducing Payment of their Debts and the Government will thus be subjected to the loss of a large Sum of Money.

Land to be granted according to capital.

Avoidance of compulsory measures.

I propose renewing the subject shortly, so that I may clearly understand what the Government has to expect, as under present circumstances I should not willingly have recourse to compulsory measures to enforce Payment, except some extraordinary circumstance should appear to render it necessary.

I have, &c.,
RA. DARLING.

* Note 64.

[Enclosure No. 1.]

LANDHOLDERS TO GOVERNOR DARLING.

1828.
28 May.

Memorial from landholders for relief in payment of instalments on purchase of land.

May it please your Excelleney.

Sir,

We respectfully beg leave to submit to your Excellency that the large Amount of Forty thousand pounds will become due on or before the Month of August to Government from ourselves and other respectable landed proprietors on Account of Lands purchased from the Crown during the administration of Sir Thomas Brisbane.

At the period when this debt was contracted, high prices had been obtained in the English Markets for the Wool and Timber exported from the Colony, insomuch that the most circumspect were induced to indulge sanguine expectations of a continued advantageous return, and the annually encreasing proceeds of Our Estates induced us to acquiesce in the high value of Five Shillings per Acre affixed as the price of the Lands then sold.

On this price, Ten pounds per Cent. was immediately paid to the Government, and, had the Market for our Produce remained Stationery, we should have been prepared without serious inconvenience, or the necessity of checking the progressive improvements in which all are more or less engaged, to fulfil our engagements.

Events, we neither foresaw nor could control, have so disordered the manufacturing and commercial interests in Great Britain, that our Timber barely pays the Expense of Transport and the value of our Wool has sunk at least fifty per cent.

In addition to this unprecedented diminution in the Amount of Our Incomes, your Excellency is a Witness of the failure of our Crops and the reduced condition of our Live Stock from the deficiency of pasturage owing to the unusual want of rain.

Under the pressure of so many difficulties, we appeal with confidence to your Excelleney for relief.

Unacquainted as we are with the intentions of your Excelleney relative to the future disposal of Land, we are nevertheless assured that, whatever plan may be adopted by your Excelleney, it will be intended equally to promote the Interest of the Government and the Settler. We therefore respectfully hope, if it should not be inconsistent with your Excelleney's views, that our present engagements may be placed on a similar Basis, or, if that presumed relief cannot be granted without interfering with your Excellency's arrangements, that we may be permitted an extended credit on our obligations on condition of paying the Government Interest on the same.

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28 May.

Memorial from landholders for relief in payment of instalments on purchase of land.

Fully confident that at your Excellency's hands our respectful request will meet with every consideration.

We beg leave to subscribe ourselves with the utmost deference, &c.,

CHARLES THROSBY.
THOMAS MOORE.
THOMAS MACVITIE.
T. W. M. WINDER.
EDWARD WOLLSTONECRAFT.
JAMES NORTON.
ALEXR. BERRY.
(for Robert Scott and Helenus Scott) J. MITCHELL.
H. MACARTHUR.
J. J. MOORE.
WILLIAM DAVIS.
A. B. SPARK.
W. BALCOMBE.
WILLM. CARTER.
J. BOWMAN.
DON. MACLEOD.
JAS. MACARTHUR.
L. MACALISTER.
SAMUEL MARSDEN (for himself and Son).
CHARLES MARSDEN.
CHARLES THROSBY, Junr.
EDWD. REDMOND.
A. K. MACKENZIE for self and Jno. P. Mackenzie.

[Enclosure No. 2.]

GOVERNOR DARLING TO LANDHOLDERS.

Gentlemen, Government House, 21st April, 1828.

Memorial acknowledged.

I have the honor to acknowledge the receipt of your Memorial without date, pointing out the circumstances which have prevented your fulfilling the Conditions under which you purchased certain Crown Lands during the Administration of my Predecessor, and requesting that the Terms may be assimilated to those which you understand it is intended to adopt for the Sale of Land in future, or that the period of payment may be extended on your obligation to pay the Government Interest.

Inconvenience to government by non-payment.

Regretting as I do the disappointment you have experienced in the Sale of your Produce, and the effects which must result from the late unfavorable Season, I shall only state generally that the local Government must experience very serious inconvenience from the circumstance of your not fulfilling your engagements; you will be satisfied of this, when I inform you that, in a communication which I made to His Majesty's Government some time since, I signified that the Monies due for the purchase of Land being considerable, I saw no reason to doubt that such a portion would be received as would render it unnecessary to have recourse to any extraordinary means to meet the Public Expence of the Colony. The total failure of this expectation must therefore embarrass the Government in no inconsiderable degree.

With respect to the proposition you have submitted as to the liquidation of your Debts, I have only to state that, having no Authority to alter the conditions under which the Crown Lands were disposed of during the Administration of my Predecessor, it would be impossible to give a retrospective effect to any regulations which might now be adopted to the Sales in question. But under the circumstance of your alleged inability to pay in immediately the Sums respectively due by you, the Collector of the Internal Revenue will be instructed to take your Engagements to pay the same by three half Yearly Instalments of equal Amount, you paying the Colonial Interest of the time, when each Instalment becomes due. 1828. 28 May. Concessions offered by R. Darling.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 81, per ship Cape Packet; acknowledged by Sir George Murray, 12th December, 1828.)

Sir, Sydney, 29th May, 1828. 29 May.

1st. In reference to my Despatch No. 80, dated the 28th inst. reporting the death of Mr. Oxley, the late Surveyor General, I have the honor to state that, in obedience to the Instructions contained in Earl Bathurst's Despatch No. 8, dated the 20th February, Major Mitchell, the Deputy Surveyor General, who is at this moment on duty in the Interior, will be appointed to the Office of Surveyor General. T. L. Mitchell to be surveyor-general.

2nd. I beg leave to submit for your consideration the names of the four Senior Assistants, with the dates of their Appointments, in the event of its being your intention to fill up the Vacant Situation of Deputy from the Assistants belonging to the Department, Vizt.:— Candidates for selection as deputy surveyor-general.

Mr. Robert Hoddle, 18th Sepr., 1823; Mr. James B. Richards, 21st July, 1824; Mr. Hemage Finch, 2nd Feby., 1825; Mr. James Ralph, 18th May, 1825.

3rd. I should observe that Major Mitchell being absent, and having myself no knowledge of these Gentlemen, who have generally been employed on Detached Duties, it is not in my power to offer an Opinion as to their Qualifications or Merits.

4th. It is necessary at the same time I should inform you that Mr. Oxley's declining State of Health having induced me to think he was not likely to recover, so as to be able to resume his duties, I wrote lately to Mr. Frankland, the Surveyor General at Van Diemen's Land, to know whether, from the circumstance of this Colony affording a wider range for Employment than Van Diemen's Land, he would be induced to accept the Position offered to G. Frankland.

1828. 29 May.

Appointment of Deputy Surveyor General here. I have not, however, yet received his Answer; But, as soon as I do, I shall avail myself of the earliest opportunity of signifying his wishes for your information.

Qualifications for deputy surveyor-general.

5th. Having so recently written on the subject of the Survey of the Colony, I need not point out how desirable it is that none but a zealous and perfectly competent Person should be selected for the Appointment of Deputy Surveyor General.

Appropriation of residence of surveyor-general.

6th. I have only further to add that I now propose acting on the Arrangement, which I had the honor of communicating in my Despatch No. 74, by allotting the House, lately occupied by the Surveyor General, for the accomodation of some of the Public Offices, until the further Arrangement can be effected on the Houses of the Chief Justice and Colonial Secretary becoming vacant. Major Mitchell, as Surveyor General, will consequently receive an Allowance of £150 a Year for House Rent, until I receive your Commands on this Subject. I have, &c.,

Allowance for house rent to T. L. Mitchell.

Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 82, per ship Cape Packet; acknowledged by Sir George Murray, 14th January, 1829.)

Sir, Government House, 29th May, 1828.

Pardons submitted for approval.

I do myself the honor to forward herewith fifteen conditional Pardons in Conformity with the 35th Section of the New South Wales Act, and I beg humbly to recommend the cases of these Individuals for His Majesty's gracious Approbation and Allowance.

I have selected these cases from Numerous Applications as the most deserving attention and I do myself the honor to submit an Abstract for your information, together with the Petitions of the Several Applicants, which, Sir, will enable you to form a judgment of their Claims to the indulgence for which I have recommended them. I have, &c.,

Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 83, per ship Cape Packet; acknowledged by Sir George Murray, 21st December, 1828.)

Sir, Government House, 29th May, 1828.

Erection of court-house at Liverpool.

I have the honor to transmit the accompanying Ground Plan and Elevation of a Court House, which I have been under the necessity of Authorising to be built without waiting for Special Authority as required by my Instructions. The fact is I had hoped that arrangements might be made so as to dispense

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29 May.

with this Building altogether and the Magistrates much to their credit have submitted to great inconvenience ever since the Building, which had been heretofore used by them and the other Courts which assemble at Liverpool, had been appropriated for the accommodation of the *Lunatics,* consisting at present of 32 Men and 12 Women.

Hospital for insane transferred to Liverpool.

2d. These unfortunate people were formerly kept at Castle Hill, Six Miles beyond Parramatta; but, as the Land on which the Building stood was given up to the Church, it became necessary to provide for them elsewhere. The Court House at Liverpool, which is a Government Building, afforded the best, indeed the only means of accommodating them at the Moment, and it was given up accordingly.

Since that time, almost a Year and a Half ago, the General and Quarter Sessions and Court of Requests have been accommodated in the best manner that circumstances have permitted; but, it having been found impossible any longer to delay making the necessary provision for their accommodation, I have been under the necessity of authorising the erection of the Building now alluded to, which has been undertaken by private contract for the Sum of £1,700 Sterling.

Court-house to be erected by private contract.

3d. Though the Building is on a Small Scale the result will afford some means of judging of the practicability of completing Works by contract. According to the opinion of the Civil Engineer, if this Building were to be put up by the Government, the Expense would not exceed a thousand Pounds; But the Government does not possess the means and cannot possibly answer the demands which are made upon it, without augmenting the Public Establishments, which every effort is now making to discontinue or reduce.

Practicability of erecting public works by contract.

I have, &c.,
Ra. Darling.

Governor Darling to Under Secretary Stanley.

(Despatch per ship Cape Packet.)

Sir, Sydney, 29th May, 1828.

Having written on the subject of the Appointment of Deputy Surveyor General, and having formerly recommended Capt. Dumaresq of the Staff Corps for that Appointment, I am induced to mention that he would not accept it under present circumstances, as, being a Senior Officer, he could not serve under Major Mitchell and he would have no chance of ever obtaining

Refusal of office as deputy surveyor-general by W. Dumaresq.

1828. 29 May.

the Situation of Surveyor General. I beg to enclose the "Sydney General Trade List," which it may be satisfactory to look into.

I have, &c.,
Ra. Darling.

Governor Darling to Under Secretary Stanley.
(Despatch per ship Cape Packet.)

Sir, Government House, 29th May, 1828.

Inability to report *re* settlements in north Australia.

I cannot close my Despatches without expressing my disappointment that it is not in my power to make any further communication, than that conveyed in my Despatch No. 23 of the present Year, respecting the Settlements of Fort Wellington and Melville Island. I have already reported the Measures, which had been adopted for supplying these Settlements, and, though I am under no apprehension as to their receiving the Supplies which have been forwarded and the Medical Aid of which they stood so much in need, still it is impossible not to feel anxious for later Accounts of the State of the Settlements than those which had been received* when I wrote last, and which came down only to the beginning of November.

I beg you will assure the Secretary of State that I shall lose no opportunity of attending to these Settlements, which, however, as far as I am enabled to judge, appear to involve a very serious and unnecessary Expenditure, or of communicating for his information such information as I may receive.

I have, &c.,
Ra. Darling.

Governor Darling to Under Secretary Stanley.
(Despatch per ship Cape Packet; acknowledged by under secretary Hay. 12th December, 1828.)

Sir, Sydney, 29th May, 1828.

Adverse report on J. Rodd.

I cannot forward Mr. Rodd's application without apprising you that he is totally unequal to the duties of any active Situation and has no claim that I am aware of to additional Land (being already in possession of 2,000 Acres) for his Services in this Government.

He has in fact never been employed and was from his Age totally unequal to the duties of Assistant Surveyor, which he originally undertook to perform, as will appear by the Surveyor General's Letter herewith enclosed. I placed him lately in the Situation of Superintendant of the Establishment at New Castle, in consequence of Earl Bathurst's Despatch No. 100, dated the

* Note 72.

1828. 29 May.

4th Decr., 1826, solely with a view of providing for him in compliance with his Lordship's Commands. But, as I perceive by his Letter to the Secretary of State that he is looking for some more considerable Appointment or Remuneration, I beg to observe that, on perusing his Letter (having repeatedly stated, tho' unequal to Duties in the Field, he was perfectly competent to those of Draughtsman), I immediately offered him that Appointment which would have placed him in a similar Situation to that in which he came out; but you will perceive by the enclosed Copy of a Letter received from him, that he prefers the Situation at New Castle. I cannot therefore think that Government is at all bound to provide for him on the Scale according to which he appears to estimate his Services, or that he has any further claim.

Adverse report on J. Rodd.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Surveyor-General Oxley to Colonial Secretary Macleay.

Sir, Surveyor General's Office, 31st October, 1826.

In reference to a communication from the Private Secretary, requesting to know the periods of Assistant Surveyor Rodd's actual employment since his arrival, and the length of time he has been unable to attend his duty.

Report on services of J. Rodd.

Mr. Rodd was placed on the Establishment on the 30th of June, 1825, and has remained unemployed until the present time. From June to January, I had no Instruments wherewith to supply the Field Surveyors, and the only duty subsequently executed by Mr. Rodd is a Map of Parramatta and Environs; Mr. Rodd has been incapable of duty for the last six months, and still remains so.

On Mr. Rodd's arrival, I stated to him my apprehension that his years and then apparent infirmities would incapacitate him for active Field employment, and I have no expectation that he will ever become an efficient Assistant Surveyor.

I have, &c.,

J. Oxley, Surveyor General.

[Enclosure No. 2.]

Mr. J. Rodd to Mr. T. de la Condamine.

Sir, Sydney, 28th May, 1828.

In reply to your Letter of this day's date, stating that you were directed to offer me the Situation of Draftsman in the Surveyor General's Office in the room of the Situation of Superintendent of Public Works, I beg leave to inform you, for the

Refusal of appointment as draftsman.

1828. 29 May.

information of His Excellency the Governor, that I prefer the latter employment, and am waiting to enter on its duties, as soon as His Excellency is pleased to command me.

I have, &c.,
J. Rodd.

Sir George Murray to Governor Darling.

(Despatch marked "Circular No. 1," per ship Competitor; acknowledged by Governor Darling, 8th November, 1828.)

30 May.

Sir, Downing Street, 30th May, 1828.

Appointment of Sir G. Murray as secretary of state.

His Majesty having been pleased to honor me with the Seals of the Colonial and War Department, in the room of the Right Honorable William Huskisson, I take the earliest opportunity of acquainting you therewith.

It will give me great satisfaction to be able to fulfil His Majesty's Gracious Intentions in this Appointment; and, as it is His Majesty's Pleasure that your Dispatches should for the future be addressed to me, I shall not fail to lay them immediately before the King, and to transmit to you such Orders as His Majesty shall think fit to give thereupon.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 1, per ship Competitor; acknowledged by Governor Darling, 13th December, 1828.)

31 May.

Sir, Downing Street, 31 May, 1828.

Despatches *re* settlements in north Australia.

I have had the honor of receiving your Dispatches of the dates and numbers mentioned in the margin,* the first accompanied by a Report from Captain Stirling of His Majesty's Ship "Success" of his proceedings in pursuance of his Instructions to establish a Settlement on the Northern Coast of New Holland to the Eastward of Melville Island, the second relating to the several Settlements on the Coast, and the expense resulting to the Government from the necessity of keeping up a Communication between those Settlements and the Seat of Government.

Disadvantages of Melville island.

Independently of the great disadvantage of Melville Island, which must always operate against its becoming a prosperous Settlement, and the unhealthiness of the Climate owing to the dense forest, the Swamps and the Mangrove, together with the oppressiveness of the heat, it seems to have failed in the object which led materially to its first formation; a Trade with the

* *Marginal note.*—No. 94, 30 Sept., 1827. No. 106, 13 Oct., 1827.

1828. 31 May.

Malays who, it now appears, never advance so far to the Westward as the Merchants, who pressed* for the making an Establishment there, at first supposed. Under these circumstances, and, as the position occupied by Captain Stirling on the Eastern Side of Raffles Bay appears in every point of view to be more favorable, no doubt can be entertained as to the propriety, as well as policy of immediately abandoning Melville Island, and transferring the Settlement to Raffles Bay; and you will, therefore, take the necessary steps for removing the Establishment from the former to the latter place accordingly.

Settlers at Melville island to be removed to Raffles bay.

The purchase of the Brig "Lucy Anne," communicated in your Dispatch No. 106, on account of the Government is approved; but, as the withdrawing of the Establishment from Melville Island will place at your disposal for other Services one, if not two, of the Vessels hitherto employed in supplying that place with provisions, His Majesty's Government entertain the hope that you will no longer find it necessary to retain the same number of Vessels as was previously required; at the same time I am far from intending to interfere with any arrangements which you may have made for keeping up the same regular Intercourse between the Seat of Government and the New Establishment at Raffles Bay, as that which you have maintained with so much consideration to their necessities and comforts in the case of the persons who composed the Settlement at the former place.

Approval of purchase of brig *Lucy Anne*.

Proposed reduction in government vessels.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 2, per ship Competitor.)

Sir, Downing Street, 31 May, 1828.

I have received your Dispatch of the 1st of October last on the subject of Grants or Reserves of Land to persons "who go out to the Colony for the moment, or authorize Individuals residing there to lay out a little money in the purchase of Stock for them," a practice which you have thought it advisable to discontinue.

Approval of prohibition of land grants to temporary settlers.

The practice alluded to has no doubt existed to a very injurious extent, and I have therefore to approve of the Regulations, which you have established with a view to prevent persons of that description from receiving Lands in the Colony, subject, however, to the observations contained in the Letters addressed to you by the desire of my Predecessor, dated the 6th of July and 6th November, 1827.

* Note 73.

1828. 31 May.

Restrictions on land grants to merchants.

The prohibition, which you have also enforced in regard to those persons who are engaged in Business or Trade, and whose Capital wholly consists in the value of their Merchandize, likewise meets my approbation; but, in the latter case, you will of course be careful not to exclude persons from acquiring Land merely on the ground of their being engaged in a Mercantile profession, as, notwithstanding such employment, they may have a considerable Capital at their disposal, which, being willing to apply to Agricultural objects, it would be neither just nor politic to refuse to them the opportunity of so applying at their discretion.

Term of residence required on land grants.

With reference to that part of your Dispatch, which relates to the period for which residence is to be prescribed, I am of opinion that the period which you have fixed in your minute, viz., three years, will fully answer the object intended.

Regulations for military settlers.

The case, however, with Officers of the Army who have been allowed to quit the Service, on condition of their becoming permanent Settlers in the Colony, is different, inasmuch as they have been admitted to advantages in which others are not permitted to participate; and it therefore becomes necessary that additional Security should be given to the Public, by such Individuals, for the due fulfilment of their part of the conditions. For these reasons I am not disposed to alter the terms of the Bond, into which the latter persons are required by the Regulations to enter, namely, that they will reside in the Colony for a period of Seven Years from the time of their securing their Grant.

I have, &c.,

G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 3, per ship Competitor.)

Sir, Downing Street, 31 May, 1828.

Despatch acknowledged.

I have received your Dispatch No. 96 of the 2nd of October last enclosing the Report of a Board, assembled under your authority for the purpose of examining into the Business of the Office of the Principal Superintendant of Convicts, and stating that, in consequence of the suggestions of the Board, you have adopted a different arrangement from that which previously existed with respect to the supplying with clothing the Prisoners maintained by the Government, and have employed two Additional free Clerks in the Office of the Superintendant.

The arrangement of supplying the Prisoners with their clothing at regular periods of the Year, instead of issuing the articles

1828.
31 May.

to each Prisoner respectively as they may fall due, appears to be a very great improvement upon the former system; and I shall, therefore, be happy to find that you have been enabled to effect this desirable measure, "without," as is expressed by the Board, "occasioning loss to the Public, or injury to individual Convicts."

Approval of system for issue of clothing;

The observations also of the Board as to the "inexpediency of confiding to Individuals of the same Class, some of the more important Duties and Records connected with the Clothing, Victualling and Characters of the Convicts," appear equally deserving of attention, and, in approving therefore of the additional assistance which it is proposed to afford to the Department of the Superintendant, with a view to the more efficient discharge of the numerous details of the Convict Business, I have, at the same time, to convey to you the authority of His Majesty's Government for extending gradually throughout the other Departments of your Government the same principle as is here recommended.

and of appointment of additional clerks.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 4, per ship Competitor.)

Sir, Downing Street, 31 May, 1828.

I have the honor to acknowledge the receipt of your Despatch No. 110 of the 27th of October last, reporting that the arrangements, adopted in the Year 1826, for conducting the Business of the Colonial Secretary's Office, not having been found to answer the purpose desired, you had found it necessary to make other arrangements with respect to that Department, the effect of which will be, I am sorry to observe, to occasion an additional charge upon the Public. Under the circumstances which are detailed in your Dispatch and accompanying Papers, namely, the difficulty, on the one hand, of getting proper persons to discharge the duties of Clerks, and the expediency, on the other, of relieving the Colonial Secretary from a part of his duties, in order that he may be able to attend to others of greater importance, I have felt myself called upon to sanction the proposed measure; but I cannot avoid expressing, at the same time, the earnest hope of His Majesty's Government that the Establishments of the Colony, organized anew as they have lately been, have now reached that perfect state of efficiency, as to enable you

Approval of reorganisation in office of colonial secretary.

1828. 31 May. to carry on the Current Business of your Government without the necessity of any further alterations or improvements in connection with its details.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 5, per ship Competitor.)

Sir, Downing Street, 31 May, 1828.

Approval of payments to Revd. D. Power.

My Under Secretary having laid before me a Letter, which you addressed to him under date of the 29th of October last, reporting the issue of £100 to the Revd. Mr. Power in addition to his Salary for the Year 1827, with the recommendation that he should be allowed, after that year, an addition of £50 per annum, until the Roman Catholic Chapel shall be completed, I have to acquaint you that His Majesty's Government have approved under the circumstances of the case of the payments in question.

Appointment of Revd. R. Murphy cancelled.

I beg further to inform you that the Revd. Mr. Murphy, whom you report not to have arrived, having been implicated in certain transactions of a political nature, which occured in Ireland soon after he obtained the Situation which he was destined to hold at New South Wales, it was deemed necessary to Cancel the Appointment; consequently Mr. Murphy will not now proceed to the Colony.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch marked "Circular No. 2," per ship Royal Sovereign.)

Sir, Downing Street, 31st May, 1828.

Limitation of term of office of governors.

I have the honor to acquaint you that it has appeared to His Majesty's Government to be expedient that the Governors of the Colonial Possessions of the Crown should fall under the same rule of restriction in respect to the duration of Service, which prevails in the Indian Governments and with respect to various Public Functionaries.

It is intended, therefore, that it shall for the future be understood that, at the expiration of Six years, a Governor of a Colony shall, as a matter of course, retire from his Government, unless there should be some especial reasons for retaining him there, and that the way should thus be opened for the employment of others who may have claims to the notice of His Majesty's Government.

1828. 31 May.

In following up this system, you will have the goodness to understand that, at the period which I have mentioned, you will be liable to receive His Majesty's Commands for delivering up your Government to the person who may be appointed by His Majesty to succeed you.

Probable termination of administration of R. Darling.

The chance of your remaining in the Government of New South Wales after that period must depend upon circumstances, in respect to which it is impossible to anticipate the decision of His Majesty's Government.

I have, &c.,
G. Murray.

Under Secretary Hay to Governor Darling.

(Despatch per ship Competitor.)

1 June.

Dear Sir, Downing Street, 1 June, 1828.

Additional land grant for G. W. Wall.

In transmitting to you the enclosed Copy of a Letter from Lieutenant Colonel Wall, together with the Extract of one from Sir Herbert Taylor, I beg to state that, if the Grant possessed already by that Officer should not exceed the quantity which his pecuniary means may enable him to do justice to, the Secretary of State will be glad to assist his views by authorizing such an addition to be made to his present Grant as you shall deem reasonable.

I am, &c.,
R. W. Hay.

[Enclosure No. 1.]

Lieut.-Colonel Wall to Viscount Goderich.

My Lord, Sydney, N. S. Wales, 10th November, 1827.

Request for additional land grant.

I do myself the Honor to address Your Lordship to solicit the favor of your Order to receive from this Government Two Thousand Acres of Land in addition to the usual Grant, which I am now in possession of; my Capital is about Five Thousand Pounds Sterg. to enable me to Stock and improve it.

I hope that your Lordship will deem me worthy of this indulgence, having served on full Pay in the Army, upwards of Thirty One Years, from which I have been induced to retire and to accept of a Grant of Land in this Colony in consequence of having my large family; trusting that Your Lordship will take my request into favorable consideration.

I have, &c.,
G. W. Wall, late Lt. Colonel, Buffs.

[Enclosure No. 2.]

Extract of a Letter from Lieut.-General Sir Herbert Taylor to Mr. Secretary Hay, dated April 8, 1828.

I send you a letter for Lord Goderich (as Colonial Secretary of State), from Lieut. Col. Wall, late Major of the Buffs, a very respectable Man, who has sold out of the Army to become a Settler

1828. 1 June. in New South Wales. It reached me yesterday with a request from him that I would forward it; and, in so doing, I have only to request that you will have the goodness to reply to it as you may think fit.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 6, per ship Competitor.)

3 June. Sir, Downing Street, 3 June, 1828.

Refusal of increase of salary for H. Steel. I have received your Dispatch No. 98 of the 4th October, 1827, accompanied by a Memorial from Mr. Steel, principal Gaoler in Sydney, praying that an addition of £50 per annum may be made to his Salary; and he urges his application partly upon the ground that the person, who holds a similar Situation at Hobart Town, receives a higher Salary than that which he enjoys.

Having, in consequence of the above observation, referred to the Returns of the Civil Establishment annually sent home by Lieutenant Governor Arthur, I do not find the fact to be such as Mr. Steel has represented, the principal Gaoler at that place having a Salary only of £200 a Year, with fees amounting to about £40 more. Without attaching, however, any importance to this trifling inaccuracy in Mr. Steel's Statement, which I feel confident was purely accidental, I regret that I am compelled to decline authorizing any augmentation of Salary to be made to that Officer, whom I consider to be sufficiently well paid for the duties required of him, and whose Salary, therefore, I should not feel justified in increasing on account of his former condition in life having been superior to the Situation which he at present occupies.

I have, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 7, per ship Competitor.)

4 June. Sir, Downing Street, 4 June, 1828.

Instructions re salary of J. Busby. I have received your Dispatch No. 102, dated the 9th October last, respecting the remuneration granted to Mr. Busby.

My Predecessor, in reply to your Dispatch No. 48 of the 8th of April, 1827, conveyed to you the Sentiments of His Majesty's Government with respect to the Appointment held by Mr. Busby, and the remuneration which it was considered proper to assign to him; and I have, therefore, nothing further to observe upon this subject in reply to your Dispatch now under acknowledgment.

I have, &c.,
G. MURRAY.

Sir George Murray to Governor Darling.

1828
5 June.

(Despatch marked "Finance Separate" per ship Surry; acknowledged by Governor Darling, 25th January, 1829.)

Sir, Downing Street, London, 5th June, 1828.

Transmission of printed blue book.

I herewith transmit for your information a Book,* which my Predecessor has caused to be printed, containing the Financial Accounts, Return of Establishments and Statements of other matters, relating to the Colony under your Government, and which I have this day directed to be laid before the Committee appointed by the House of Commons to enquire into the existing state of the Revenue and of the Expenditure of the Empire.

Papers submitted to committee of house of commons.

Whether these papers, generally, contain all the information, which the Committee of the House of Commons may require, and whether it will be found that such information has been furnished in the most accurate manner I cannot of course determine.

Inquiry proposed re colonies.

As it is not very probable, however, that the Committee will be enabled to enter upon a minute enquiry into the Establishment of His Majesty's Colonial Possessions during the present Session of Parliament, you will have an opportunity of giving your close attention to the papers, which I now transmit to you, with the view of their being corrected, perfected, and returned to me at an early period of the ensuing year, and as you will have it in your power to supply, with respect to many points, more recent information than these papers contain, I should be glad, if you could make arrangements for reprinting the papers, after they shall have been corrected, of which you will take care to send at least Thirty Copies.

Further reports requested.

I am, &c.,
G. Murray.

Under Secretary Hay to Governor Darling.†

Dear Sir, Downing Street, 5 June, 1828.

Recommendation of A. Davies as settler.

This Letter will be presented to you by Lieutenant Arthur Davies, R.N., who is about to establish himself at New South Wales as a Settler. Lieut. Davies is an Officer of 20 Years standing, and married the niece of the late and present Lord Nelson. He has in his possession the strongest Testimonials from the several Admirals and Captains under whom he has served; and I have only to add that I shall feel myself obliged by any attention and assistance which you may be able to render this Gentleman.

I am, &c.,
R. W. Hay.

* Note 74. † Note 3.

1828.
6 June.

Sir George Murray to Governor Darling.

(Despatch marked "Circular Finance No. 3," per ship Surry.)

Sir, Downing Street, London, 6 June, 1828.

Instructions *re* annual accounts and returns.

I take this opportunity of transmitting to you a Book of blank Returns for the purpose of being filled up at the end of the present year. I, also, annex a copy of Lord Bathurst's original instructions, signifying the King's Commands that these Returns should be sent home annually; it being understood that the Financial statement is to contain an abstract of the Receipts of every description and of the expenditure of the Year which has expired (in this case it will be of the present year); and the Establishment, a return of the Civil, Judicial, Ecclesiastical and petty Officers of your Government, classed methodically according to their rank, as they may be borne on such Establishment at the commencement of the year (in this case of course on the first of January next). The object of this arrangement is to obtain the most recent information of the actual current state of the burthens for which your Government has to provide, to be compared with the latest accounts which can be given of the Financial Resources of the Colony.

Reasons for information desired.

By reference to Lord Bathurst's instructions you will perceive that it was, thereby, directed that the Financial Statements should be accompanied by such observations as might serve to explain the causes and point out the remedy of any deficiency in the Revenue or excess in the Expenditure not contemplated or sanctioned in the Fixed Establishment of the Colony, it being, thereby, intended that His Majesty's Government should, at an early period in every year, possess the means of knowing the extent of the charges for which the Government of New South Wales would have to provide in the course of the year.

Neglect to transmit reports in previous years.

It is impossible for me to imagine why so little care seems hitherto to have been taken to send home the Blue Book regularly and in due time, and generally unaccompanied by any Report upon the Charges and Resources of your Government. This omission cannot, surely, have arisen from inattention to a subject of such deep interest; and yet the slightest inspection of any one of the Financial Abstracts, which have been transmitted from the Colony, affords abundant proof how much is left to be explained upon points, which are not susceptible of being made intelligible by figures alone.

I, therefore, state to you that it is the expectation and positive desire of the King's Government that His Majesty's Commands, as signified by Lord Bathurst, should be strictly attended to by

you; and I anxiously hope that you will not render it necessary for me to remind you again of His Majesty's Pleasure upon this subject. 1828. 6 June.

I have further to desire that you will specially entrust the Chief Secretary to your Government with the duty, under your direction, of collecting and inserting in the Blue Book the statements and details there required; and it will, I think, save considerable trouble and expense, if you take measures for having the Returns, of which the Book consists and the details regarding the Fixed Establishment, printed in the Colony, care being taken to adhere strictly to the form and size of the Returns, the accuracy of which must be certified by the Secretary. Blue book to be prepared by colonial secretary. Returns to be printed.

I am, &c.,
G. MURRAY.

[Enclosure.]

EARL BATHURST TO GOVERNOR OF NEW SOUTH WALES.

Circular.

Sir, Downing Street, 31st March, 1822.

I have had occasion to remark that a want of a regular form of transmission of detailed information respecting the financial resources of His Majesty's Colonies, and the several branches of their expenditure, is a deficiency which creates much inconvenience to the public Service. Instructions re annual returns of revenue, expenditure, civil servants, etc.

I transmit to you herewith the form, in which it appears to me that the information alluded to may be most usefully arranged; and I am to signify to you His Majesty's pleasure that these returns should be filled up in the manner pointed out, and forthwith transmitted to me for His Majesty's information.

Under the first division, "Abstract of the net Revenue and Expenditure," you will insert, under general heads, the Receipts and disbursements of your Government, so as to exhibit distinctly and separately the sources from which the receipts have been derived on the one hand, and on the other the total expense incurred by each department of the Government, distinguishing the ordinary established charges of the several offices from their contingent and accidental expenses.

In addition to these Abstracts, you will transmit such observations as you may judge sufficient to explain the causes, and point to the remedy of any deficiency in the Revenue or excess in the Expenditure.

Under the second division, "Schedule of Taxes, duties," etc., etc., will be contained a detailed account of all the taxes and duties collected within your Government, specifying the several authorities under which the same have been levied, whether by Act of Parliament or by Order of the King in Council, by Act of the Colonial Legislature, Ordinance, or other Authority of whatever description.

To this statement should be annexed any additional information, you may be able to furnish, respecting all the different sources of the public Revenue.

Under the third division, "Military Expenditure," will be inserted an account of the Military Posts and Works, specifying whether the same are under the controul of the Ordnance department,

1828.
6 June.

Instructions *re* annual returns of revenue, expenditure, civil servants, etc.

with details of the expense incurred on account thereof by the Colony, a general return of the Militia and of any other local Corps with the charge for the same, the pecuniary allowances (if any) granted to the King's troops and the value of Rations, Quarters or other advantages received by them and forming a charge on the Colony.

The 4th Division, Establishment, will comprize the general Establishment of your Government, arranged according to departments, and including every individual employed therein, with all the particulars specified in the several Columns of the return relative to the nature of their duties, their emoluments, length of services, etc., also a return under similar heads of those public Officers who may not be attached to any particular department.

The returns hitherto transmitted to this office are in general defective in many of these particulars, to which the public service requires that there should be the means of ready reference, and there are not wanting considerations connected with the interests of the public Servants themselves, which render it no less desirable that this information should be fully and regularly furnished.

The fifth division, "Schedules of the Fees, etc.," will contain tables of all the fees received by the respective Officers, together with the authorities under which they are demanded.

It is His Majesty's pleasure that a report of this description should be made as soon as possible to this department after the close of every year; and I am to desire that the forms which accompany this despatch may be filled up for the year 1821 under your immediate inspection, and returned to me forthwith in original and duplicate, when it will be considered whether any alteration or additions may hereafter be requisite. In case any cause should retard the completion of these documents, you will not fail to inform me of the reasons why you have not been able to comply with His Majesty's Instructions.

The several heads or divisions of this return may be easily extended to any space required, adhering to the same forms, and any information or explanation not particularly specified in it, which it may be in your power to afford, may be transmitted at the same time in a separate report. I have, &c.,

BATHURST.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Competitor; acknowledged by Governor Darling, 28th August, 1829.)

9 June.

Report required *re* land granted to G. J. Frankland.

My dear Sir, Downing Street, 9th June, 1828.

I shall be very much obliged to you for any information, which you may be able to convey to me upon the enclosed Memorandum from Mrs. George Frankland which has been put into my hands by Lord Fitzroy Somerset. I am, &c.,

R. W. HAY.

[Enclosure.]

MEMORANDUM.

GEORGE JACKSON FRANKLAND about five or six years ago obtained a grant of Land in New South Wales, and died there leaving a widow and three sons, who have returned to England; Mrs.

Frankland thinks the grant was never perfected, as the stipulated sum of money, charged for it, has not been paid or applied for, and consequently no Document was given to Mr. Frankland, but he was let into possession of the Land. 1828. 9 June. Report required *re* land granted to G. J. Frankland.

Mr. Frankland previous to his leaving England made a Will, disposing of all his property for the benefit of his wife and children, and, as he had not a grant at that time, the land in New South Wales was not notified in it. *If the grant has not been completed*, Mrs. Frankland is anxious it should be made in accordance with the Will, as it was Mr. Frankland's intention his Wife and Children should enjoy the Land in the same manner as his other property. *If the grant has been perfected*, can Mrs. Frankland's wish be complied with, or *any alteration be made in the terms of the original Contract*; or will the property descend to the eldest son, subject to Mrs. Frankland's Dower?

Under Secretary Hay to Governor Darling.

(Despatch per ship Competitor.)

Dear Sir, Downing Street, 10th June, 1828. 10 June.

Understanding that it is the intention of Lady Brisbane, the Widow of the late Commander Sir James Brisbane, to send out a Marble Tablet to be erected in Memory of her husband, I have to request that you will afford every facility in placing the Tablet* in any of the Churches Lady Brisbane may select for that purpose. Memorial tablet to Sir J. Brisbane.

I am, &c.,
R. W. Hay.

Sir George Murray to Governor Darling.

(Despatch marked "Separate," received *via* Hobart town.)

Sir, Downing Street, 12th June, 1828. 12 June.

I have the honor of acquainting you that His Majesty has been pleased to confer upon Mr. Algernon Montagu the appointment of Commissioner of the Courts of Requests, in the room of Dr. Douglass, whom you have intimated your determination, for the reasons reported in your despatch of the 15th December last, to remove from that situation. Appointment of A. Montagu as commissioner of court of requests.

If however, as is not improbable, Mr. Montagu's services should be required at Van Diemen's Land, in which case he will not proceed to your Colony, you will, upon receiving a communication to that effect from Colonel Arthur, make such temporary arrangements as you may deem proper for discharging the duties of Commissioner of the Courts of Requests, until you shall receive further instructions from His Majesty's Government with respect to that appointment. Possible employment of A. Montagu in Tasmania.

I have, &c.,
G. Murray.

 * Note 75.

1828. 12 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch marked "Private," received *via* Hobart town.)

Dear Sir, Downing Street, 12th June, 1828.

Recommendation in favour of A. Montagu.

From the accompanying correspondence with Colonel Arthur, and from my separate Dispatch of this date, you will perceive the circumstances,* under which Mr. Montagu has proceeded to New South Wales; and I have great pleasure in bringing the name of this gentleman under your favorable notice, feeling assured that the same motives which induced him, at my request, to consent to a change of Destination, and to accept, with so much readiness, a situation of lower Emolument than that originally conferred upon him by my Predecessor, will continue to influence Mr. Montagu's conduct, and that you will thus find in him a most zealous and useful Member of your Government. I remain, &c.,

G. MURRAY.

[Enclosures.]

[*These were despatches to lieut.-governor Arthur from the secretary of state, dated 29th April and 10th June, 1828, and from under secretary Twiss, dated 10th June, 1828.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.†

17 June.

Introduction of B. Langa.

Sir, Downing Street, 17th June, 1828.

This letter will be presented to you by Mr. Berman Langa who, at the recommendation of the late Secretary of State, was appointed, by the Lords Commissioners of the Treasury, Comptroller of the Customs at New South Wales, and I am directed by Secretary Sir George Murray to introduce this gentleman to your protection and good offices. I am, &c.,

R. W. HAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.†

18 June.

Recommendation in favour of Flindell family.

Dear Sir, Downing Street, 18th June, 1828.

I have the honor of transmitting to you the enclosed copy of a memorial, which was addressed to Mr. Huskisson previously to his resigning the Seals of this Department by a family named Flindell.

You will observe by the reply addressed to Captain Bastard (who, together with his brother the Member for Devonshire and many other persons to whom the parties are personally known, has taken an extraordinary interest in their behalf) that there existed on the part of this Department a very strong disposition to assist in the furtherance of their views.

* Note 76. † Note 3.

1828.
18 June.

Recommendation in favour of Flindell family.

It is to be apprehended that, after defraying the expenses of their passage out to the Colony, this family, if they all proceed to the Colony together, will have very little if any money remaining to contribute towards their support after their arrival; but, as the education, which the whole of them have received, will admit of their making themselves useful in private families, if no opportunity should offer for employing them with advantage in the public service, Sir George Murray has rather encouraged than otherwise the execution of their plans, conceiving that, in a Community of the nature of that of which New South Wales is composed, the emigration of persons of this description will be attended with no less advantage to themselves than to the Colony itself. Under these circumstances, I am directed to recommend the individuals in question to your protection, with the request that you will make to them a small grant of land, and in the hope that you will be able to afford them such other assistance as will enable them to establish themselves successfully in the Colony.

I have, &c.,
HORACE TWISS.

P.S.—As there is considerable difficulty about the means of conveyance perhaps a part of the family will go out first and endeavour to prepare the way for the subsequent arrival and establishment of the rest. H.T.

[Enclosures.]

[*Copies of these papers are not available.*]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 84, per brig Margaret; acknowledged by Sir George Murray, 2nd January, 1829.)

Sir, Government House, 19th June, 1828. 19 June.

Necessity for detention of 40th regiment in colonies.

I do myself the honor to transmit for your information the Copy of a Letter which I have addressed to the Commander in Chief, pointing out the impossibility under present circumstances of forwarding any part of the 40th Regiment to India.

Being desirous that the Commander in Chief should be fully informed of the circumstances, which rendered a compliance with the Orders I had received impracticable at the present Moment, I requested the Lieut. Governor of Van Diemen's Land to furnish me with a Report of the State of that Colony, a Copy of which I have now done myself the honor to enclose for your information.

I have, &c.,
RA. DARLING.

1828.
19 June.

[Enclosure No. 1.]

GOVERNOR DARLING TO LORD FITZROY SOMERSET.

My Lord, Government House, 19th June, 1828.

Necessity for detention of 40th regiment in colonies.

I do myself the honor to acquaint you for the information of the Commander in Chief, in reference to my Despatch No. 1 of the present Year, that, being desirous to ascertain whether the Services of any part of the 40th Regiment could be dispensed with by the Government of Van Diemen's Land, I addressed a Letter to the Lieutenant Governor expressing my desire to carry into effect the Orders I had received by forwarding that Regiment to India, and proposing to commence, by detaching in the first instance such a portion of the Corps, as could be conveniently spared until the arrival of additional Troops from England should enable me to forward the whole Regiment.

I now beg your Lordship will be pleased to bring under the consideration of the Commander in Chief the accompanying Copy of a Letter, which I have received from Lieutenant Governor Arthur in reply to my communication, by which it will appear that it is not in the power of that Government to dispense under present circumstances with any part of the 40th.

The Right Honble. The Secretary of State for the Colonies will be enabled to inform the Commander in Chief of the present state of Van Diemen's Land, occasioned by the hostility of the Aborigines; and I have only to request that you will assure The Commander in Chief that I shall not fail to detach a part of the 40th to India, as soon as circumstances shall permit of my reducing the Garrison of Van Diemen's Land. I beg at the same time to express my opinion that 500 Rank and File at the least will, even under ordinary circumstances, be necessary for the protection of that Colony, and that, if the various Settlements at present dependent on this Government are to be continued, a Force of 1,400 Men will be necessary for the common Garrison Duties of New South Wales.

Number of military required in colonies.

I do myself the honor to enclose a Return of the Strength and Distribution of the 39th and 57th Regiments. The Return of the 14th will be found with the Enclosure No. 1.

I have, &c.,
RA. DARLING.

[Enclosure No. 2.]

[*A copy of lieut.-governor Arthur's despatch, dated 24th May, 1828, will be found in a volume in series III.*]

[Enclosure No. 3.]

1828.
19 June.

Return of 39th and 57th regiments.

RETURN of the Troops shewing the number of each Corps at Head Quarters and at the respective out-Stations.

Sydney, 20th June, 1828.

Corps.	Stations.	Lieut. Colonels.	Majors.	Captains.	Subalterns.	Serjeants.	Rank and File.
39th ...	At Head Quarters	1	...	2	5	18	269
	,, Norfolk Island	...	...	1	2	2	72
	,, Port Macquarie	...	...	1	1	2	61
	,, Parramatta	...	1	...	1	1	58
	,, Raffles Bay	...	...	1	1	1	30
	,, King George's Sound	...	...	1	...	1	18
	,, Liverpool	...	...	...	...	1	12
	,, Emu Plains	...	...	...	...	1	12
	,, Illawarra	...	...	...	1	...	3
	,, Mounted Police	...	...	...	...	1	24
	On the Passage to relieve Detach'ts	...	...	...	1	...	17
	Detached	...	1	4	7	10	308
	Total	1	1	6	12	28	577
57th ...	At Head Quarters	...	2	4	9	12	337
	,, Moreton Bay	...	...	1	2	3	81
	,, Melville Island	...	...	2	2	3	61
	,, Bathurst	...	...	...	1	1	24
	,, Wellington Valley	...	...	...	...	1	12
	,, Port Stephens	...	...	...	...	1	12
	,, Cox's River	...	...	...	1	1	10
	,, Weather board Hut	...	...	...	...	1	10
	,, Fish River	...	...	...	...	...	6
	,, Molong Plains	...	...	...	...	...	4
	,, Longbottom	...	...	...	...	...	7
	,, Glebe Farm	...	...	...	...	...	7
	Mounted Police	...	...	...	1	...	23
	On the Passage to relieve Detachm'ts	...	...	...	1	1	26
	On Escort Duty	...	...	...	...	1	10
	Detached	...	...	3	8	13	293
	Total	...	2	7	17	35	630

CHARLES HUNT, Major of Brigade.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch marked "Separate," per brig Margaret.)

Sir, Sydney, 19th June, 1828.

Intimacy between H. G. Douglass and W. C. Wentworth.

Having had occasion to advert, in my correspondence relative to Dr. Douglass, to the intimacy which subsisted between him and Mr. Wentworth, and he having persisted in denying the existence of any such intimacy, I cannot perhaps furnish a more incontrovertible proof of the little attention he has a claim to on the score of veracity, than by forwarding the accompanying Copy of an application, received from Mr. Wentworth through the Superintendant of Police, for the temporary Services

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of a Painter, who had been transferred to him by Doctor Douglass previously to his leaving the Colony.

Application by W. C. Wentworth for services of painter lent to H. G. Douglass.

The Case, as will be seen by the Enclosures, is briefly as follows:—Payne, the Man alluded to, a Painter, was *lent* to Dr. Douglass for a short time according to the practice of the Government. It appears that Dr. Douglass, instead of returning him as he was bound to do (more particularly as an Officer of the Government) when no longer requiring his Services, kept him until he was leaving the Colony, and then handed him over to Mr. Wentworth, as a proof no doubt of his often repeated assertions that his intimacy with Mr. Wentworth had long since ceased. The fact, now alluded to, having been accidentally communicated by his friend Mr. Wentworth, will derive more weight from this circumstance, and will serve to prove more satisfactorily than any observations of mine, the little Credit which is due to any Statement Dr. Douglass may be induced to make on his Arrival in England to answer Party purposes, while it shews a very reprehensible want of attention on his part as a Public Officer to the Government Regulations. But it is further not unfair to presume that he transferred Payne to Mr. Wentworth, with a view of embarrassing the Government, probably conceiving, from the Opinion given by the Chief Justice that the Governor had no authority over assigned Servants, that Mr. Wentworth would have resisted giving him up, evincing at the same time his utter disregard of the Sentiments of the Government by affording Mr. Wentworth the assistance of Payne's Services, after he had been in fact suspended from Office for the countenance he had already shewn to Mr. Wentworth, who had in the most public manner abused both the Governor and the Government.

Unreliable statements by H. G. Douglass.

Probable reasons for transfer of B. Payne.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Sir, Principal Supt. of Convicts Office, 12th June, 1828.

Application by W. C. Wentworth for services of convict.

In transmitting, for the purpose of being submitted to the Governor, the Enclosed Application from Mr. C. Wentworth for the Services for One Month of the Prisoner named in the Margin.* I beg leave to acquaint you for the information of His Excellency that Payne had been lent to Dr. Douglass for a short period, and never had been returned to Government by that Gentleman.

I am not aware of any existing objection to Mr. Wentworth's request being complied with, if approved by His Excellency.

I have, &c.,
F. A. HELY.

* *Marginal note.*—Bryant Payne, Ship Earl St. Vincent, a Painter.

[Enclosure No. 2.]

1828.
19 June.

MR. W. C. WENTWORTH TO MR. F. A. HELY.

Sir, George Street, 11th June, 1828.

When Dr. Douglass was leaving the Colony, he lent me the Services of a Man called Bryant Payne (who I understood to be his Assigned Servant) in order that he might paint my House at Vaucluse. The day before yesterday he was taken up by the Constables as a Runaway by your direction, as I understood from you this morning. He has been employed at Vaucluse for about a Fortnight, during which time he has been exclusively engaged in Painting and has nearly completed my Drawing Room, which by his sudden apprehension remains of course in an unfinished state, and so that no other Painter probably could complete according to the Original design.

Application by W. C. Wentworth for services of convict.

This Man I understand has been in Dr. Douglass's Service for the last Thirteen Months, but, as he was not duly assigned to me by Dr. Douglass, I have no wish to enter into the Question whether, after such a length of Service, he can be now considered a Runaway or not. I have however to request that he may be allowed to fulfil that arrangement with me, which Dr. Douglass entered into, and which will not occupy him for more than a Month longer, at the end of which time I will see that he is returned to Government.

I have, &c.,
W. C. WENTWORTH.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 85, per brig Margaret.)

Sir, Government House, 20th June, 1828. 20 June.

I regret having to communicate that the long continued Drought, which has unfortunately been experienced, has subjected the Colony to very serious inconvenience. The Crops of Grain, Wheat and Maize have in some Districts almost entirely failed, while, in others even the most favorable, they have been reduced to less than half the usual produce.

Failure of crops through drought.

This event and the improvidence of the lower Class of Settlers, who never make provision for a season of scarcity when they are so fortunate as to have an Abundant Harvest, have exposed this Class in particular to very serious inconvenience on the present occasion.

Embarrassment of settlers.

They in general depend on their maize for immediate support, disposing of the Wheat which they raise in the Sydney Market. And, when the Maize Crop has run short, they have made up the deficiency by the substitution of Potatoes and other Vegetables. In the present instance, the failure has been general and they are as destitute of Potatoes as of Maize.

Foreseeing the present event, several of the Merchants despatched Vessels some time since for Supplies of Grain, four to Valparaiso and Two to the Cape of Good Hope. Three of

Expected shipments of grain.

1828. 20 June.

these are immediatcly expected, which, (trusting they will meet with no accident to prevent their early return) with the Supplies coming from Van Diemen's Land, though much less plentiful than heretofore, the late Crops in that Colony having also fallen short, will prevent the Colony suffering any serious distress. At present the price of Wheat in the Market is not higher than 15s. and Maize is selling at 10s. a Bushel. Bread has consequently risen, the price of the two pound loaf, which sold not long since for 4½d., being 9½d. at present.

Price of grain and bread.

Reduction of bread ration for assigned convicts.

I do myself the honor to transmit to you the Copy of a "Government Notice," which I have issued to enable the Inhabitants to reduce the Ration of Bread to their Convict Servants, having understood they felt some hesitation in resorting to this measure without such authority, lest their Men should have been dissatisfied.

The Allowance, given by the Settlers generally to Men Servants, has been very liberal, being a Peck of Wheat per Week, which is understood to yield about 12 lbs. of Flour. Half this quantity will supply the present ration of Bread, which is Seven pounds; so that a very considerable saving will be accomplished and the equivalent for the reserved portion of Flour will be easily furnished. Butcher's Meat being abundant, the price of Cattle having fallen in consequence of the great scarcity of Grass.

Abundance of meat.

Suspension of duties on grain and flour.

I have, Sir, further the honor to transmit the Copy of a Proclamation which I have issued, suspending the levy of the Advalorem Duty of 5 per Cent. and Wharfage Dues on such Foreign Grain and Flour as may be imported in the course of the next Six Months. This has been permitted, not so much with a view to the relief of our present Necessities, as to provide against a failure of the ensuing Crop, which is apprehended, should the Drought continue much longer, and there is certainly no appearance of rain at present.

I was unwilling for some time to take any step on the part of the Government to obtain a Supply of Grain, being satisfied that whatever might be disposable at Van Diemen's Land would be procured by the Merchants of Sydney; but, as many of the Settlers would probably return their Convict Servants to the Government in the event of serious distress, I have written to procure a Supply to Meet such an emergency.

Grain to be imported from Tasmania.

I beg Sir to add that, in the whole of the proceedings on this occasion, I have consulted and acted with the advice of the Executive Council.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

1828.
20 June.

GOVERNMENT NOTICE.

Colonial Secretary's Office, Sydney, 12th June, 1828.

Recommendation *re* reduction of ration of wheat and flour by private persons.

HIS EXCELLENCY the Governor, finding that the Importation of Wheat, to make up for the deficiency of the Late Crop, is not so great as there was reason to expect, and that consequently it is to be apprehended that there will be a scarcity of Bread in the Colony before the reaping of the next Harvest, considers it to be of great Importance that, for the present, the strictest economy should be observed in the Consumption of Wheat; and, having with this view ordered the weekly Ration to Prisoners in the Service of government to be reduced to Seven Pounds of Bread;

His Excellency strongly recommends to all Settlers and other Persons, having Convict Servants, to reduce their Ration of Wheat and Flour to the same scale during the ensuing Six Months, and to make up for this reduction by encreasing the Ration of Meat, or in any other way that may be most convenient to the several Parties.

The Consumption of Bread and Flour in Private Families may generally be so easily reduced, by the substitution of other wholesome and nourishing Food, that His Excellency trusts that it is unnecessary for him further to urge the great importance of this subject; and that even those Families, who may have the means of procuring a more ample Supply, will, for the sake of example and the Public Good, immediately limit their Establishments to as moderate a Consumption of these Articles as possible.

His Excellency requests of the Magistrates to give all possible publicity to this notice in their several Districts without delay, and to report to the Colonial Secretary from time to time how far they have reason to believe that His Excellency's Recommendation is observed.

By His Excellency's Command,

ALEXANDER MCLEAY.

[Enclosure No. 2.]

PROCLAMATION.

Proclamation *re* remission of duties on grain and flour.

BY His Excellency Lieutenant General Ralph Darling Commanding His Majesty's Forces, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

Whereas, in the present state of this Colony, it is expedient to encourage the Importation of Foreign Grain and Flour; I, The Governor, do hereby declare and order that all Wheat, Flour, Maize, and other Grain, which shall be Imported in Ships or Vessels duly authorised into the Colony of New South Wales, before the expiration of Six Calendar Months from and after the Date of this my Proclamation, shall be permitted to be landed in the Port of Sydney, free of all Duty and Charges of Wharfage; and the Acting Collector of the Customs is hereby authorised to exempt all such Grain and Flour from the payment of any Duty or Charge for Wharfage accordingly.

Given under my Hand and Seal at Government House, Sydney, the Nineteenth day of June, in the Year of Our Lord One thousand Eight Hundred and twenty eight.

RALPH DARLING.

By His Excellency's Command,

ALEXANDER MCLEAY.

1828.
21 June.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch marked "Separate," per brig Margaret.)

Sir, Sydney, 21st June, 1828.

Transmission of statement by Revd. T. H. Scott.

I do myself the honor to forward to you, at the desire of Archdeacon Scott, the accompanying Copy of a Letter, which he has addressed to me in reference to the "Statement" lately published* by the Reverend Mr. Marsden, a Copy of which I beg leave also to enclose.

I have referred to the Draft of the Minute of Proceedings† of the Court of Enquiry, appointed by Earl Bathurst to investigate the matters relative to Dr. Douglass and the Reverend Mr. Marsden; but I do not find any reference to the accompanying Protest† (Enclosure No. 1) which the Archdeacon states he delivered in the Court, when signing the Report.

Reasons for refusal to approve act of indemnity.

The Archdeacon has further called on me this morning with the Accompanying Paper, containing an Extract of his Reasons for declining to sanction the Bill of Indemnity, as it is generally termed, and he has assured me that as to the case of James Blackburn, to which the Revd. Mr. Marsden was supposed to be a Party, the most satisfactory testimony was lying on the Council Table, at the time, of Mr. Marsden's Absence from Parramatta, when the Punishment was ordered. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Sydney, 17th June, 1828.

Statement published by Revd. S. Marsden.

On my return from holding my Visitation in Van Diemen's Land a Week ago, the Reverend Mr. Marsden placed in my hands a printed "Statement including a correspondence relative to a Charge of illegal punishment."

The Statement has been only printed for private distribution amongst Mr. Marsden's friends, as he has stated to me for his own justification.

I do not think it becoming the station, to which His Majesty has been graciously pleased to raise me, to enter into disputes before the World on subjects which my own conscience clearly acquits me of having done any Wrong; and it is for this reason I have most carefully abstained from noticing the libels and calumnies with which the Newspapers of this Colony have been filled against me from the very day I landed to the present Moment.

I think it would have been courteous in Mr. Marsden, considering the terms of friendship between us, as well as our relative situations here, to have made me acquainted with his

* Note 46. † Note 77.

1825. 21 June.

intention, and to have given me at least the option of making any remarks or reply.

I do not however lay any stress on that subject, for I can well feel for the injustice he has received and the deep injury he considers he has sustained.

Responsibility of Revd. T. H. Scott.

It is a difficult matter, as it concerns myself with His Majesty's Government and my Ecclesiastical Superiors, to whom I am bound to give an account of my conduct, being aware that, if I err unintentionally, I am subject to be cautioned, if wilfully, to severe and just displeasure and punishment.

Participation in inquiry *re* H. G. Douglass.

In pursuing the Inquiry on which I was placed, there were points on which I differed with the other Members of the Court, and, on these occasions after some discussion, I had my opinions recorded on the proceedings.

At the termination of the enquiry as well as I recollect, the three charges were made the subject of three different Reports. To the two first, which I think were the "habitual drunkeness" of Dr. Douglas, in the absence of all *affirmative* evidence and upon the evidence of a Most Respectable body of Witnesses he negatived the charge, and therefore I "unequivocally" (to use Lord Bathurst's own Words) acquitted him.

Upon the case of Ring, there was such contradictory evidence, and the subject was so involved in obscurity, that I felt great difficulty at coming to a general conclusion; and therefore on that subject, as well as the charge of "having ordered a Convict to be flogged with a view of extorting confession from him," I signed the Report subject to a protest or reasons for differing with the other Members.

At this distance from the time when the Inquiry took place, I cannot charge my Memory precisely (and not having been furnished with a Copy of the Reports I cannot refer to them); but I think it will be found on reference that, *towards the latter part* of the Report, my reasons are referred to respecting this transaction, and, some where towards the middle of the Report on Ring's case, a reference is made to the evidence I thought necessary to be obtained, but which was refused.

I should presume that the Original or an Office Copy remains with the Papers left by your Excellency's predecessor and can be referred to; or that there is one in the Colonial Department in England.

Dissenting opinion given by Revd. T. H. Scott.

I would however beg leave to enclose for Your Excellency's perusal a Copy of my Opinion, which *I saw several times appended to the Reports in the possession* of the late Major Ovens, then Private Secretary to the Governor, before they were finally transmitted to England.

1828.
21 June.

If Your Excellency does not consider it to be too much trouble, I should feel obliged by your transmitting to the Secretary of State for the Colonies a Copy of this Letter with its enclosures.

I have, &c.,
T. H. Scott.

[Sub-enclosure No. 1.]

[*This was a copy of the opinion by archdeacon Scott; see page 780 et seq., volume XI.*]

[Sub-enclosure No. 2.]

Reasons for disapproval of act of indemnity.

Extract from the reasons of Archdeacon Scott, against "an Act of the Sixth George 4. No. 18. intituled, An Ordinance to stay Proceedings against Justices of the Peace in New South Wales and its Dependencies acting in execution of their Office, dated 5th October, 1825.

"8. And because, from the Year 1815 to the Year 1820 both inclusive and embracing a period of Six Years, out of 2,121 Punishments inflicted by the Parramatta Bench, there do not appear more than twenty two indefinite Sentences pronounced, as reported to the Council, whereas, in the Year 1823, there are 48 Warrants for indefinite punishments, at which time Dr. Douglass was Police Magistrate at Parramatta; and, though the former cannot be justified, yet the great increase of the latter does aggravate the Offence against the Constitutional Law of England; and because from the Year 1817 to 1820, both Inclusive, there were 2,892 punishments at Sydney, and from the Year 1818 to 1820, both inclusive, there were 1,436 punishments at Windsor, yet no case of indefinite corporal punishment has been discovered."

Note.—Thus in Six Years, there are 2,121, 2,892, 1,436, Total 6,449 punishments recorded, and only 22 cases said to have been discovered, many of which have been disproved, and in One Year only, Vizt., 1823, 48 Warrants have been discovered (and there are more) of Illegal punishment while Dr. Douglass was Police Magistrate.

"10. Because I consider the Records of the Magistrates, which have been kept, are so Irregular and defective, as to invalidate them as Evidence; it appearing that, in the Parramatta Bench Records, a case is erroneous, in which the name of the Reverend Samuel Marsden as Magistrate appears, who has satisfactorily proved his absence, and whose name does not appear with others in the Warrant of Committment; in the Records of the Penrith Bench, a Blank of four pages still exists of a date so far back as the 6th April, 1822, neither does any entry appear to have been made since the 7th June last; and the Liverpool Records contain only a period from 14th February, 1824, to the 24th July, 1824, and the Magistrates have avowed in a Letter the former Records are in a mutilated and imperfect State."

[Enclosure No. 2.]

[*This was a copy of the printed pamphlet by Revd. S. Marsden.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 8, per ship Eliza.)

1828.
22 June.

Sir, Downing Street, 22nd June, 1828.

I have the honor to acknowledge the receipt of your despatch No. 126 of the 17th Decr., 1827, reporting the resignation of Mr. J. T. Campbell as Collector of Customs, and the temporary appointment of Captain Rossi to act in that capacity on a Salary of £1,000 a year, discontinuing for the present the Office of Comptroller.

Appointment of collector of customs.

My Predecessor in his despatch of the 19th of May has apprized you of the necessity of Captain Rossi's resuming the situation originally held by him of Superintendant of Police, in consequence of the Lords Commissioners of the Treasury having already provided for the appointments in question, and I am, therefore, sorry that it is out of my power to confirm the arrangements adopted by you for the continuance of that Officer in the situation of Collector.

F. N. Rossi to resume office as superintendent of police.

I have, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 9, per ship Eliza; acknowledged by Governor Darling, 24th November, 1828.)

Sir, Downing Street, 22nd June, 1828.

I have the honor to transmit to you the enclosed copy of an application addressed to the late Secretary of State by Mr. Mills, Registrar of the Supreme Court in New South Wales, whose object is to obtain a Grant of 5,000 Acres of Land in that Colony, and I am to request that you will acquaint Mr. Mills that his application should have been forwarded through the medium of the Colonial Government.

Application by G. G. Mills for land grant.

You are aware that there existed, formerly, a positive prohibition against the conferring of Grants upon persons filling public situations in the Colony, but that, by later instructions, that prohibition has been withdrawn, so that an Officer, who may be thus situated, no longer stands upon a different footing in this respect from those persons who may be unconnected with the Government. Late occurrences, however, render it very doubtful whether it would be proper to continue the practice of granting lands to the Civil Servants, so long as they hold situations under the Government: at least much caution would seem to be requisite in complying with such applications.

Problem of land grants for civil servants.

With a view, therefore, of relieving you from the unpleasant duty of deciding upon applications of this nature from the Civil

1828. 22 June.

Applications to be sent to England.

Servants, I have to desire that you will refer every such application to His Majesty's Government with a full explanation of the services and pecuniary circumstances of the party by whom the indulgence may be solicited.

I have, &c.,
G. MURRAY.

[Enclosure No. 1.]

MR. G. G. MILLS TO RIGHT HON. W. HUSKISSON.

Sir, Supreme Court Office, Sydney, 29th January, 1828.

Application by G. G. Mills for land grant.

I have the Honor to enclose the Copy of a Letter sent to Mr. Wilmot Horton in November last. It won'd have been addresesd to the Viscount Goderich, but, having an occasional Correspondence with Mr. Wilmot Horton, I thought it better in the first instance to solicit that Gentleman's attention to the Business, feeling sure that he won'd take an early opportunity of submitting my Request to His Majesty's Secretary of State for the Colonial Department.

Understanding that Mr. Wilmot Horton now fills another office, and not having the Honor of Mr. Hay's personal acquaintance, I have presumed at once to submit the matter to your Consideration.

Allow me at the same Time to express an Hope that you will be kind enough to view the Enclosure, as a Request well founded, and for which there are so many and such substantial Precedents.

I have, &c.,
G. G. MILLS.

[Enclosure No. 2.]

MR. G. G. MILLS TO UNDER SECRETARY HORTON.

Sir, Sydney, 12th November, 1827.

By the Death of Mrs. Mills, I have become entitled to a considerable Property, which I expect to be put into Possession of during the Course of next Year.

This addition to my Fortune (which my Relative and Representative in England, Mr. Edmund Byng, is well acquainted with) induces me to hope that His Majesty's Government will be graciously pleased to direct that a Grant of five thousand Acres may be made to me on Hunter's River, as contiguous as possible to the Lands I now occupy.

Messieurs Macarthur, Berry and Wollstonecraft, MacQueen, Aspinall and Browne, Blaxland, Lawson, etc., etc., have obtained at different Times Grants, exceeding by many thousands of acres the Favor, I now solicit; and, as it is fully my Intention by the Blessing of Divine Providence to pass the Remainder of my Life in New South Wales, I will hope that this, my Application, may obtain thro' your kind and friendly Mediation the Sanction of His Majesty's Government.

I have further and more delicate Reasons for pressing this Matter, which shall be submitted by an early occasion.

I have, &c.,
G. G. MILLS.

UNDER SECRETARY TWISS TO GOVERNOR DARLING. 1828. 22 June.
(Despatch per ship Eliza; acknowledged by Governor Darling, 19th December, 1828.)

Sir, Downing Street, 22nd June, 1828.

Request by T. P. Macqueen for permission to purchase land.

With reference to the proceedings adopted against Mr. Danger in connection with a Grant of Land, which he had improperly appropriated to himself and which form the subject of your despatch of the 11th of March, as well as of Mr. Huskisson's reply of the 15th October, 1827, I am directed by Secretary Sir George Murray to transmit to you the enclosed copy of a letter addressed to him by Mr. Potter Macqueen, requesting permission to purchase the particular grant in question upon the usual terms, should neither Mr. McIntyre, one of the parties who claims the land, nor Mr. Danger, the other party, be placed in possession of the same: And I am directed to acquaint you that, unless you should see any objection to Mr. Macqueen's proposal, Sir George Murray is of opinion that it would be proper to comply with his request, as it would afford the means, without any additional expense to the Public, of remunerating Mr. Danger for any money which he may have expended on this property according to the suggestions contained in Mr. Hay's letter of the 12th February, 1828; and you will, therefore, consider yourself authorized to allow Mr. Macqueen to obtain possession of the land accordingly. I am, &c.,

HORACE TWISS.

[Enclosure.]

MR. T. P. MACQUEEN TO SIR GEORGE MURRAY.

Sir, Cavendish Square, 11th June, 1828.

In consequence of the Conversation I had the Honor to hold with you on Tuesday last, I beg to state that, if, in consideration of the Petition of Mr. Henry Dangar late Assistant Surveyor in the Colony of New South Wales, you should be of opinion, under the Impression manifested by Mr. Huskisson, that neither He nor Mr. McIntyre should be put into possession of the 1,300 acres of Land now claimed by both, then I venture to hope that I may be enabled to purchase on the usual terms this tract of Land, so that no new occupier may be planted in a position wholly surrounded by my Property.

In making this request, I beg distinctly to disavow any intention of offering any impediment to Mr. Dangar's petition, but merely to request that, should this Land be witheld from both Parties, I may then be permitted to hold it as essential to the Compactness of my Estate.

I have only to add that in this Case I am willing to indemnify Mr. Dangar for any Sums he may have expended and which any two Arbitrators may consider a fair Compensation.

I have, &c.,

T. POTTER MACQUEEN.

1828. 24 June.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Eliza; acknowledged by Governor Darling, 30th December, 1828.)

Sir, Downing Street, 24th June, 1828.

I am directed by Secretary Sir George Murray to transmit to you the accompanying Resolution adopted at a Council of the Royal Society, which was held on the 22nd of May last, relative to certain Books of Observations, which Mr. Rumker, who was left in charge of the Observatory at Parramatta on the departure of Sir Thomas Brisbane, is represented to have withheld from the Society. And I am to request that you will be pleased to take the necessary steps for obtaining the transmission to England of the Books in question, should it appear that there has existed any disposition on the part of Mr. Rumker unduly to detain them.

Detention of books of observations by C. S. Rumker.

I am, &c.,

HORACE TWISS.

[Sub-enclosure.]

RESOLUTION AT A COUNCIL OF THE ROYAL SOCIETY, 22 MAY, 1828.

Resolution passed by council of royal society.

THAT a representation be made to the Colonial Department that it appears that Mr. Rumker, hitherto Assistant to the Observatory at Paramatta, detained, and still withholds, three books of Observations made at that Observatory under the direction of Sir Thomas Brisbane, notwithstanding his repeated remonstrances to the contrary; and that it would be desirable that steps should be taken by Government to recover the same, in order to complete the set of Observations about to be reduced by direction of the Board of Longitude at the recommendation of the Royal Society.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Eliza; acknowledged by Governor Darling, 20th December, 1828.)

25 June.

Sir, Downing Street, 25th June, 1828.

Statements made by J. T. Gellibrand.

In a letter which has been lately received from Mr. Gellibrand, the former Attorney General of Van Diemen's Land, he states that his services had not only been made use of by the Governor of New South Wales in a late visit which he had paid to that Colony, but that it was the wish of that Government to give him some official appointment, which delicacy* alone towards Lieutenant Governor Arthur prevented his obtaining.

I am directed by Secretary Sir George Murray to transmit to you an extract of that part of Mr. Gellibrand's letter which relates to this subject: and I am to request that you will be pleased to acquaint me, for Sir George Murray's information, with the circumstances under which recourse was had to the services of Mr. Gellibrand who, having been dismissed for misconduct, cannot but be considered a very unfit person to have

Disapproval of employment of J. T. Gellibrand.

* Note 78.

been employed upon the occasion adverted to, and which employment the Secretary of State trusts, therefore, was conferred upon him in ignorance of the circumstances* under which he was removed. 1828. 25 June.

I am, &c.,
HORACE TWISS.

[Enclosure.]

EXTRACT of a letter from Mr. Gellibrand to the Rt. Honble. The Secretary of State, dated Hobart Town, 8 January, 1828.

"I TAKE the liberty of stating that, having occasion in the month of September last to proceed to Sydney upon some private business, I was applied to by A. M. Baxter, Esqre., His Majesty's Attorney General for New South Wales, to assist the Government in drawing information against several individuals in that Colony for libels upon His Excellency the Governor in Chief, and upon the Government of the Colony, and also to assist in conducting the Trials. I immediately complied with his request, and afforded such assistance as lay in my power. Employment of J. T. Gellibrand at Sydney.

"I may perhaps here be permitted to state that it was the wish of the Government of New South Wales to give me some official appointment, but that a delicacy was felt towards Lieut. Governor Arthur; and, upon my leaving Sydney for Van Dieman's Land, the Attorney General wrote me a letter, copy of which and of my reply I beg to enclose, Nos. 1 and 2." Appointment considered.

[Sub-enclosure No. 1.]

MR. A. M. BAXTER TO MR. J. T. GELLIBRAND.

My dear Sir, York Street, 20 October, 1827.

Before setting out for the Derwent, I beg in the name of the Governor and of myself to offer you our thanks for the kind assistance you gave the Crown Officers in the Trials for libel that have lately taken place, and are still pending in the Colony. I beg to enclose for your acceptance the sum of £50, which I am desired by the Governor to give as a fee for your services. Payment for services of J. T. Gellibrand.

I am, &c.,
ALEX. M. BAXTER.

[Sub-enclosure No. 2.]

MR. J. T. GELLIBRAND TO MR. A. M. BAXTER.

My dear Sir, Macquarie Place, 20 October, 1827.

In acknowledging the receipt of your letter of this day, expressing the thanks of His Excellency the Governor and yourself for the assistance given by me to the Crown Officers in the Trials for libel, that have lately taken place and are still pending, I beg to assure His Excellency and yourself that it has afforded me much satisfaction in having it in my power to render the Government any assistance, and which I shall be happy at any future period to afford. Letter acknowledged.

 * Note 78.

1828.
25 June.
Refusal of fee.

With respect to the last paragraph in your letter, in which you state that you are desired by the Governor to enclose me £50 as a fee for my services, as I cannot under the circumstances of the case (as pecuniary emolument was not my object) accept the same, I return it to you enclosed. I am, &c.,

J. T. GELLIBRAND.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 10, per ship Eliza; acknowledged by Governor Darling, 30th December, 1828.)

26 June.
Detailed particulars re convicts given to surgeons of transport ships.

Sir, Downing Street, 26th June, 1828.

Lieutenant Governor Arthur having represented to this Department the necessity of his being furnished, in the Assignment List, with every information respecting the crimes, characters, trades, and former connections of the Prisoners who may be sent out to the Colony under his Government, I have the honor to transmit to you, for your information, the copy of a letter which has been received from the Home Department in reply to a reference which was made to it upon this subject, by which you will perceive that a document is already given to the Surgeon Superintendant of every Convict Ship, containing a List of all the prisoners on board, together with such information as can be procured relative to the particulars in question; This list ought to be delivered to the local Government by the Surgeons Superintendant upon their arrival at the place of their destination, and, in order to secure the regular delivery of the lists in future with the Convicts, Mr. Secretary Peel will desire the Commissrs. of H.M.'s Navy to give positive instructions to that effect to the respective Officers employed in this Service. I am, &c.,

G. MURRAY.

[Enclosure.]

MR. S. M. PHILLIPS TO UNDER SECRETARY TWISS.

Sir, Whitehall, 18 June, 1828.

I am directed by Mr. Secretary Peel to acknowledge the receipt of Lord Francis Gower's letter of the 16 ult., enclosing a copy of a dispatch from the Lt. Governor of Van Dieman's Land, and desiring Mr. Peel's attention may be called to the observations of the Lt. Governor on the importance of being furnished with information respecting the Crimes, Characters, Trades and former connections of the prisoners sent out to the Colonies.

You are probably aware that the Surgeon Superintendent of every Convict Ship has delivered to him a document containing

a list of all the Convicts on board, together with such information as can be procured relative to the particulars specified by the Lieut. Governor. 1828. 26 June.

Detailed particulars re convicts given to surgeons of transport ships.

This document ought regularly to be given up by the Surgeon Superintendent with the Convicts to the Governor or Lieut. Governor on the arrival of the Ship. In order to prevent the inconvenience which appears to have arisen, and to secure the regular delivery of the lists, Mr. Peel will give positive instructions to the respective Surgeons Superintendent employed in this Service.

I am, &c.,
S. M. Phillips.

Sir George Murray to Governor Darling.
(Despatch No. 11, per ship Competitor.)

Sir, Downing Street, 27th June, 1828. 27 June.

I have had the honor of receiving your dispatch No. 125 of the 15th December, stating that it is your intention to appoint Mr. Carter, who at present holds the situation of Master in Chancery and Chairman of the Quarter Sessions, to the office of Sheriff in the room of Mr. Mackaness, whose removal was notified in your despatch No. 123. Nomination of W. Carter as sheriff.

Mr. Macquoid, who has been long accustomed to discharge the duties of a Sheriff, and to whom has been held out for some time past the expectation of receiving an appointment of this nature, will proceed to New South Wales to take upon him the Office vacated by the supersession of Mr. Mackaness. Under these circumstances, I regret it is out of my power to confirm Mr. Carter in the above situation. Appointment of T. Macquoid.

Mr. Macquoid's salary will not commence until the date at which he may arrive in the Colony.

I have, &c.,
G. Murray.

Under Secretary Twiss to Governor Darling.*

Sir, Downing Street, 27th June, 1828.

I am directed by Secretary Sir George Murray to transmit to you the copy of a letter, which he has received from the Secretary of the Treasury, covering a memorial from Mr. Montefiore, a gentleman of considerable Capital, who is desirous of becoming a Settler in New South Wales. I also enclose for your information, the copy of the answer which has been returned by Sir George Murray to this application. And I have only to add his request that you will be pleased to give effect to the intentions of Sir George towards the gentleman in question, as Transmission of papers re J. B. Montefiore.

* Note 3.

1828. 27 June.

therein expressed, together with such other facilities as it may be in your power to shew him, consistently with the Regulations, and with what may be due to the rights of other persons.

I am, &c.,
HORACE TWISS.

[Enclosure No. 1.]

MR. G. R. DAWSON TO SIR GEORGE MURRAY.

My dear Sir George, Treasury, 19th June, 1828.

Transmission of memorial.

I have been requested to forward the accompanying Memorial to you by a most respectable gentleman, a relation of the applicant, with whom I am well acquainted.

The Memorial will speak for itself, and I believe it seldom falls to the lot of a Secretary of State for the Colonies to receive a more desirable application than that which I have the honor of sending to you.

Mr. Montefiore's means are most ample, his character excellent, and his exertions, being founded on practice and experience, will, I should think, render him a most valuable acquisition to the Colony.

I shall be very much obliged to you for an early answer, and, if you should think proper to encourage his application, I shall be obliged to you to add such facilities to his undertaking as you should think proper and which may prove ultimately advantageous to him.

Believe me, &c.,
G. R. DAWSON.

[Sub-enclosure.]

MR. J. B. MONTEFIORE TO SIR GEORGE MURRAY.

Sir, 17 South Street, Finsbury Sqre., 11th June, 1828.

Application by J. B. Montefiore for land grant.

Having for many years paid great attention to the progress of Colonization to His Majesty's Colony of New South Wales, and adopted every method of satisfying myself of its capabilities, I am now desirous of removing thereto with my family to establish myself as a Agriculturist, persuaded that its soil and climate are adapted to every purpose of cultivation, and that capital expended in those pursuits must by its judicious application prove alike valuable to the Colony, and those who employ it. Under this view, I respectfully solicit a grant of five thousand acres of Land, which, if accorded, I shall forthwith proceed to the Colony with my wife, child, brother and three domestics, taking with me a capital of Ten Thousand pounds, exclusively of which I have funded property here in trust to the amount of Eight Thousand Pounds; and, as the expense of proceeding thither will cost above seven Hundred pounds, I presume it will appear my means are entirely adequate. I purpose taking with me an experienced Agriculturist in all its branches, and, as I have resided many years in the West Indies, and am familiar with its products, my views will be extended to their cultivation, should the Soil promise a favorable result.

I likewise purpose turning my attention to the cultivation of various drugs, which I am persuaded may be matured there. I

1828.
27 June.

Application by J. B. Montefiore for land grant.

further purpose taking with me a quantity of the most improved breed of Marino Sheep, to which it is my intention to give every attention as well as to the breeding of Horses and horned Cattle.

It would entirely exceed the limits of a letter, were I to enlarge on the objects stated, and I presume sufficient has been said to evince my ability of fully employing the grant solicited; persuaded of the vast importance of this fast rising Colony, I trust it may be made speedily, that I may adopt the necessary measures to proceed without delay. As references respecting myself, I beg to refer to the following Gentlemen whose names I have given at foot.

I have, &c.,
J. Barrow Montefiore.

W. Montefiore, Esq., Park Lane (one of the Trustees to my funded property); Wm. Ward, Esq., M.P., New Broad St.; A. W. Roberts, Esq., M.P., Lombard St.; Major Moody, R.E., Bolton St.; N. M. Rothschild, Esq., Piccadilly.

[Enclosure No. 2.]

Sir George Murray to Mr. G. R. Dawson.

Dear Sir, Downing Street, 27 June, 1828.

Regulations *re* area of land grant.

By our regulations (A copy of which I enclose) you will perceive that it is left to the Governor to decide, with reference to the amount of Capital a Settler may carry out with him, the quantity of Land which he shall obtain, that is to say to any extent not exceeding four square Miles or 2,560 Acres.

With every wish therefore to comply with your recommendation in favor of Mr. Montefiore, I regret that I do not feel myself at liberty, consistently with the regulations to which I have above referred, to direct a larger grant to be made to him in the first instance than that authorised by the Governor's instructions.

Instructions proposed *re* grant to J. B. Montefiore.

It will however give me much pleasure to convey authority to the Governor to extend Mr. Montefiore's Grant to 5,000 Acres, the number mentioned in his application, should the Governor find, after Mr. Montefiore's arrival in the Colony, that the means at his disposal would justify such further indulgence being shewn to him.

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 12, per ship Competitor; acknowledged by Governor Darling, 1st February, 1829.)

28 June.

Sir, Downing Street, 28th June, 1828.

Employment of Hallan as town surveyor.

I have received your despatch of the 19th December last, reporting it to be your intention to employ Mr. Hallen as Town Surveyor (his qualifications peculiarly fitting him for that situation) instead of attaching him to the Surveyor General's Department according to the object of his original appointment.

1828.
28 June.

Employment of Hallan as town surveyor.

I see no objection to your disposing of Mr. Hallen's services in the manner which you have proposed; but, as the salary which the Board (whose report accompanied your despatch No. 48) recommended to be attached to that situation was fixed with reference to the difficulty of getting a proper person to undertake the charge upon a lower scale of remuneration, and as Mr. Hallen, when he first received his appointment, had no reason to expect a higher salary than £250 per annum, I deem this a proper occasion for reducing the amount of the salary assigned to the situation in question. In the event, therefore, of your not having already adopted this measure I have to desire that it may now be done. I have considered it advisable to leave to your discretion the fixing the amount; but I should conceive under all the circumstances of the case that Mr. Hallen ought to be satisfied with a salary at the rate of £300 per annum, augmenting in the proportion recommended by the Board, viz., £25 per annum, but that no further augmentation shall take place when Mr. Hallen's Salary shall have reached the sum of £400 a year. I have, &c.,

G. Murray.

Sir George Murray to Governor Darling.*

2 July.

Recommendation of T. Peel as settler.

Dear Sir, Downing Street, 2nd July, 1828.

This letter will be presented to you by Mr. Thomas Peel (a near relation of the Home Secretary of State) who has determined to establish himself as a Settler at New South Wales. This gentleman is represented to me as possessing ample means and very high character, and I shall, therefore, feel myself obliged by any attention and assistance which you may be able to render him, in furtherance of his views, consistently with established Regulations. I remain, &c.,

G. Murray.

Under Secretary Twiss to Governor Darling.*

9 July.

Recommendation of A. Dowling as barrister.

Sir, Downing Street, 9th July, 1828.

The bearer of this letter, Mr. Alfred Dowling, Brother to the Judge, is proceeding to New South Wales with the view of practising as a Barrister in that Colony. I take the liberty of introducing him to your notice and protection, and beg to add that the Secretary of State sees no objection to Mr. Dowling pursuing the course which he has in contemplation, should none be entertained by the Supreme Court. I have, &c.,

Horace Twiss.

* Note 3.

GOVERNOR DARLING TO UNDER SECRETARY HAY. 1828. 10 July.

(Despatch per ship Boddington; acknowledged by under secretary Twiss, 8th April, 1829.)

Sir, Government House, 10th July, 1828.

I have the honor to acquaint you, in reference to your letter of the 11th of November, 1826, informing me that the Secretary of State had been pleased to confirm the Appointment of Mr. Nicholson as Harbour Master, and to direct the issue of a Salary to that Officer not exceeding the Amount of his present Emoluments of every kind, to be paid to him in lieu of all Fees and Allowances, that I have in consequence fixed Mr. Nicholson's Salary at £500 a Year. Salary of J. Nicholson as harbour-master.

2d. It appears that Mr. Nicholson's Income during the last Year was as follows, "Vizt.":—

Salary, £100; Fees, £431; Total, £531.

In addition to the above, Mr. Nicholson was allowed a House belonging to the Government, which in consequence of the present arrangement I directed to be disposed of by Public Auction and has been sold for £465. This sum has been placed to the credit of Government. Sale of house occupied by J. Nicholson.

3d. I beg leave to enclose for the information of the Secretary of State, the Copy of a "Minute," which I have issued in consequence of the New Arrangement respecting Mr. Nicholson's Salary.

I have, &c.,
RA. DARLING.

[Enclosure.]

MINUTE No. 72.

Government House, 25th June, 1828.

1st. Let it be notified that Mr. Nicholson, the Harbour Master and Master Attendant of the Dock Yard, will be allowed a Salary at the rate of £500 per Annum from the 1st of the ensuing Month of July, to be in lieu of all Fees and Allowances, conformably to Instructions received from the Under Secretary of State, dated the 11th of November, 1826. Salary for J. Nicholson.

2. Let the Auditor be instructed to prepare and submit an arrangement, by which the Harbour Master shall regularly account for all Fees duly payable to that Office, in order that the same may be subjected to an efficient check, and brought to account at the proper period. Accounts of fees.

3rd. Let the Civil Engineer be instructed to send in a Description of the House and Premises belonging to Government in possession of Mr. Nicholson, and suggest the best means of disposing of the same for the benefit of the Public. House occupied by J. Nicholson.

RA. DARLING.

1828.
14 July.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Boddington.)

Sir, Government House, 14th July, 1828.

Death of J. Hill.

I have the honor to transmit for the information of the Right Honble. the Secretary of State the accompanying Copy of a Letter from the Principal Surgeon, reporting that "James Hill," the subject of Mr. Stanley's letter of the 30th of December last, died in the General Hospital on the 5th January, 1827.

I have, &c.,
RA. DARLING.

[Enclosure.]

PRINCIPAL SURGEON BOWMAN TO MR. T. DE LA CONDAMINE.

His Majesty's General Hospital,
Sir, Sydney, 12th July, 1828.

Report *re* J. Hill.

In reply to your Letter of this day's date, I have the honor to acquaint you for the information of His Excellency the Governor that the Seaman named in the Margin* was received into this Hospital from His Majesty's Ship Volage on the 23rd of October, 1826, and died on the 5th January, 1827.

I have, &c.,
J. BOWMAN.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 13, per ship Royal Sovereign.)

15 July.

Sir, Downing Street, 15th July, 1828.

Transfer of Mitchell and appointment of Wilson as civil engineer.

With reference to my Predecessor's despatch No. 26 of the 13th May last, by which you were apprized that Major Mitchell had been appointed Civil Engineer of the Colony under your Government, I have now the honor to acquaint you that, circumstances having induced His Majesty's Government to transfer the services of that Officer to another Colony, Captain Wilson, late of the Royal Artillery, has been appointed by me to that situation; and I have to desire that the same Salary may be issued to Captain Wilson as was fixed by my Predecessor's despatch above referred to and under the same Regulations.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.†

Dear Sir, Downing Street, 15th July, 1828.

Recommendation in favour of Henderson.

The Bearer of this letter, a son of the late Sir John Henderson, has been very highly spoken of to me by Sir Philip Durham and Lord Gray, at whose solicitation I have much pleasure in recommending him to your notice and protection.

* *Marginal note.*—James Hill. † Note 3.

1828. 15 July.

Not knowing what means you may possess of employing any individual proceeding to the Colony under similar circumstances, I have held out to Mr. Henderson no expectation that it would be in your power to provide for him; but, as I feel confident from the education which he has received, and the habits of business which he has acquired under his father's tuition, that he is capable of making himself very useful in any situation in which he may be placed, I shall be glad to hear that you have had an opportunity of availing yourself of his Services.

Recommendation in favour of Henderson.

I remain, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 14, per ship Royal Sovereign.)

Sir, Downing Street, 16th July, 1828. 16 July.

With reference to your despatch, of the 19th December last, respecting the employment of Mr. Hallen as Town Surveyor, and to mine of the 28th instant (No. 12) sanctioning that arrangement, I have now the honor to acquaint you that I have appointed Mr. Stapylton to the vacancy thereby created in the Surveyor General's Department; and you will cause a salary to be issued to Mr. Stapylton at the rate of £200 pr. annum, to half of which he will be entitled from the date of his embarkation until he shall have reported to you his arrival in the Colony.

Appointment of Stapylton as assistant surveyor.

I am, &c.,
G. Murray.

Under Secretary Twiss to Governor Darling.*

Sir, Downing Street, 17th July, 1828. 17 July.

This letter will be presented to you by Mr. M. C. Cotton who has been appointed, by the Lords Commissioners of the Treasury, Collector of the Customs at New South Wales; and I am directed by Secretary Sir George Murray to introduce this gentleman to your protection and good Offices.

M. C. Cotton appointed collector of customs.

I remain, &c.,
Horace Twiss.

Sir George Murray to Governor Darling.
(Despatch No. 15, per ship Royal Sovereign; acknowledged by Governor Darling, 31st December, 1828.)

Sir, Downing Street, 19th July, 1828. 19 July.

With reference to your despatch of the 11th of April, 1827, and to the several despatches which have been addressed

Despatch acknowledged.

* Note 3.

1828. 19 July.

Establishment for customs house.

to you connected with the subject of the Custom House Establishment at New South Wales, I have the honor to acquaint you that the Lords Commissioners of the Treasury have communicated to me the following Establishment of Officers for the performance of the various duties of that Department.

Collector at a Salary of	£1,000
First Clerk to the Collector to perform also the duty of Warehouse-keeper	300
One Locker to assist Do	100
Comptroller who should also perform the duty of Landing Surveyor	600
Clerk to Comptroller	200
Two Landing Waiters, Searchers and Gaugers each	300
Four Tide-waiters—Two each	150
Two each	100
	£3,300

Officers appointed.

Their Lordships have further notified the following Appointments to the above mentioned Offices:—

Mr. Michael Cullen Cotton, Collector.
Mr. Burman Langa, Comptroller and Landing Surveyor.
Mr. Robert Webb, Clerk to do.
Mr. Francis Mowatt, Landing Waiter, Searcher and Gauger.
Mr. Thomas Oliver, Searcher, Landing and Coast-waiter.

I have, therefore, to direct you to take the necessary measures for carrying this arrangement of the Lords Commissioners into effect.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 16, per ship Royal Sovereign.)

27 July.

Sir, Downing Street, 27th July, 1828.

Despatch acknowledged.

My Under Secretary of State has laid before me the letter, which you addressed to him under date of the 30th October, 1827, accompanied by various papers relating to a claim which Mr. John Blaxland, a Landholder at New South Wales, has more than once brought forward on account of certain losses sustained by him from the Colonial Government.

Land grant proposed in settlement of claims of J. Blaxland.

It appears that, this claim having been referred to a Board to report upon its merits, you came to the opinion that a Grant of land of four or five square miles free of all Quit-rent, in full satisfaction of all his claims upon the Government, would not exceed the minimum to which he appears fairly entitled; but that, Mr. Blaxland having demanded a larger grant than you conceived to be reasonable, you have thought it right to submit his case for the disposal of His Majesty's Government.

1828
27 July.

I agree with you and the Board in opinion that a suitable Town Allotment in Sydney, or in some other Township, which may be convenient to Mr. Blaxland for instance in Hyde Park which he appears to prefer, should be assigned to him as an equivalent for the land,* which he was required by the late Governor Macquarie to give up for public purposes, and for which he appears hitherto to have received no compensation. If this matter, however, cannot be arranged according to Mr. Blaxland's satisfaction in that mode, it would then appear but reasonable that he should receive in money the value of the land in question; and perhaps the sum of £400, the amount at which he has himself estimated it, may not be too high a valuation when the number of years are considered which have elapsed since the transaction, of which he complains, took place.

Compensation for surrender of town allotment.

Mr. Blaxland's estimate of his losses, in consequence of the impediments opposed by the Colonial Government to his following his stray Horses accross the Nepean River, and which losses he calculates at the sum of £2,860, is clearly an exaggerated one. For a part of the time that his Horses were running wild, that is to say up to February, 1822, he appears to have estimated his total loss at £1,200. Now, there appears no sufficient ground for adding to that sum on account of any Horses which may have been unrecovered by him subsequently to that period, especially as it would seem from the Report of the Board that the "recovery of the greater part was and may be practicable," and that therefore any loss of horses, which has accrued since the 15th of February, 1822, has been owing in a great measure to his own want of diligence, and not to any obstruction to their recovery occasioned by the Colonial Government; and indeed Mr. Blaxland's actual loss, even up to the above date, appears very vaguely and hypothetically made out. If, therefore, the amount of the compensation, to which he is entitled, be admitted to that extent (viz., £1,200), I am of opinion that the most liberal view will have been taken of this part of his case.

Claim for loss of horses.

Compensation proposed.

The other claim of Mr. Blaxland remaining to be disposed of is for the non-fulfilment of a promise held out to him with respect to Convicts; And on this head, also, his estimate appears to be much higher than the circumstances of the case can justify. The Board report that Mr. Blaxland would not, upon the most liberal construction, be entitled in the then state of the Colony to more than six Artificers for three or four years, whereas he appears to claim compensation on account of them for eight years. Even for three or four years, however, the claim is one

Claim for non-assignment of artificers.

* Note 79.

1828. 27 July.

Compensation proposed.

as to which neither the right nor the amount of compensation can be very clearly ascertained; and if, instead of £3,840, the amount at which he estimates his claim, the sum of £1,300, which is something more than a third of the former amount, were to be allowed to him, I am of opinion that he would be sufficiently compensated.

Compensation to be given in land.

In admitting Mr. Blaxland's claim to the amount above-mentioned, you will understand (with the exception of the equivalent for the Town allotment for which, as before stated, you are authorized to compensate him in money) that it is only in land that indemnification can be made.

Proposed area and value of land grant.

Mr. Blaxland proposes that, in apportioning the land to the amount of his claims, the valuation of such land should be given at the valuation of 5s. per acre. And I see no objection to your giving him, at the average value of 5s., 10,000 acres which will be the amount covered by the two sums of £1,200 and £1,300 before mentioned.

I have, &c.,

G. Murray.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 88, per ship Boddington; acknowledged by Sir George Murray, 1st June, 1829.)

28 July.

Sir, Government House, 28th July, 1828.

Transmission of report *re* delay in public accounts.

Being anxious with respect to the transmission of the Public Accounts, I was induced some time since to call on the Auditor to explain fully the cause of the delay which had taken place in making them up.

2d. I now do Myself the honor Sir, to transmit for your information a Copy of the Auditor's Report on this subject, to which I am unwilling to add any observations of my own, as it would only take up your time without rendering the matter more clear or satisfactory.

Causes of delay.

It is however due to Mr. Lithgow to state that his attention has been frequently withdrawn from the immediate duties of his Office, in order to his assisting in the enquiries and investigations necessary to the preparation and framing of regulations for the conduct of the several Departments and Establishments; which, as I have before mentioned, were at the time of my arrival, in common with every branch of the Government, in a state of the greatest possible confusion and disorder. I might add, that a desire to keep down the Expenditure, in furtherance of the Instructions I have received from time to time, may also have interfered with the more prompt performance of the Auditor's duties.

I have, &c.,

Ra. Darling.

[Enclosure.]

1828.
28 July.

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir, Audit Office, Sydney, 28th May, 1828.

Letter acknowledged.

1. I have been honored by your Letter No. 336 of the 24th inst. requiring me to report the reasons of no Public Accounts having been transmitted to the Treasury since His Excellency The Governor's arrival in the Colony, and to state what Accounts I have forwarded or made up since my Appointment.

Preparation of public accounts for past years.

2. In reply, I beg leave to inform you that, by Mr. Harrison's Letter of the 31st March, 1825, Instructions were conveyed to Governor Sir Thomas Brisbane to forward to the Right Honble. The Lords Commissioners of His Majesty's Treasury "the Accounts of Expenditure of New South Wales and Van Diemen's Land from the last Quarter inclusive of the Year 1821, as far as regards New South Wales, and from the beginning of the Year 1820 as far as regards Van Diemen's Land, together with the Duplicate Vouchers, if such Duplicate Vouchers had been taken, but, if they did not exist, the Accounts for the above mentioned Periods without Vouchers"; and that, in pursuance of these Instructions, complete Copies of the Public Accounts of New South Wales for the last period of the Year 1821 to 31st December, 1825, were prepared and delivered to His Excellency the Governor in October last Year, and were by His Excellency duly forwarded as directed; but, as Duplicate Vouchers had not been taken, and Vouchers were in such case to be dispensed with, none were consequently transmitted with the Accounts.

Public accounts for years 1826 and 1827.

3. The Public Accounts of the Colony, which it is now requisite to forward with all possible despatch through His Majesty's Treasury to the Auditors of Colonial Accounts, are therefore those of the two last Years, 1826 and 1827, for, with regard to those of previous Years, I consider the Instructions of Their Lordships to have been already complied with by the Transmission of the Accounts as above pointed out.

Causes of delay in transmission of accounts.

4. The Transmission of the Accounts for the Years 1826 and 1827 is now retarded, chiefly in consequence of their being defective (more particularly those of the former Year) in point of the signatures of several of the Constables and subordinate Persons employed in different Departments to the acquittances for their respective Salaries.

Former practice in payment of salaries.

5. Previously to the late Instructions, it was the practice to direct, by Warraut, the payment in the first instance of the Salaries of each Department to the Officer in charge, who gave his Receipts for the Amount; it being understood that the latter would procure the Acquittances of the several Parties to whom the Salaries were due.

6. The Treasurer, as a matter of course, took credit for the full amount of the Quarterly Abstract of Salaries, taking the receipt of the Head of the Department or Officer certifying the Abstract as his Voucher, and returning him the Abstract to procure the Signatures of the several Persons to whom the Salaries were due, opposite their Names and Salaries in the Abstract, or separate Receipts to be attached thereto.

7. It is in respect of the Signatnres to such Abstracts that the Treasurer's vouchers are chiefly defective.

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Former practice in payment of salaries.

8. It was formerly attended with considerable delay and difficulty to procure the whole of the necessary Signatures to the Acquittances of Salary Abstracts, more particularly of those for the Salaries of Constables in remote Situations, some of them from 100 to 200 Miles from Sydney, owing to the irregularity of conveyance and the infrequency of communication with the newly settled Districts, as well as of those of the Officers and Persons employed in the Medical Departments at the different out Stations and Penal Settlements.

Improved methods introduced.

9. Arrangements however have been made since the Year 1826, by which the procuring of the Signatures of Parties at a distance, or of their duly authorised Agents, are now obtained with much greater regularity, and the Government Order of the 22nd instant will it is hoped have the effect of enabling the Treasurer shortly to complete his Vouchers, so far as is practicable, by the requisite subordinate Receipts or Acquittances; and, if not furnished within a reasonable time, the Parties neglecting to do so can be surcharged accordingly, and the Accounts closed without loss of time.

Preparation of accounts.

10. In the mean time, every effort will be made in this Office to put the Accounts of both the Years in question in a state of readiness for transmission by an early opportunity, and, as the Accounts of last Year are in a more complete state than those of 1826, the Accounts of both Years can be transmitted at the same time.

11. Since the commencement of the Year 1826, the Vouchers to the disbursement side of the Treasurer's Accounts have been carefully examined in this Office before being placed in Warrant and subsequently to payment; the Examination of the Treasurer's Abstracts of Disbursements for both Years with the Vouchers has also been completed. I do not anticipate therefore that it will require any considerable time finally to prepare the Accounts of both these Years for Transmission.

Statement *re* obstacles to closing of accounts.

12. The obstacles, which have prevented these Accounts being completed at an earlier period so far as this Office is concerned, have been such as it would not be easy to explain, without entering into a very minute and tedious detail; and, though it was originally my intention to enter into a very full explanation on the subject, as I would gladly hope the chief of them are now removed, I trust I may be excused in confining myself generally to those of greater weight.

13. One of the Principle obstacles may be considered as attributable to the constant changes of Regulations and Establishments, unavoidably required to meet the exigencies of a New Colony in a progressive state of developement, and to the general inattention to Forms, Regulations and exactitude in matters of account, which prevailed in almost every Department previously to the Years in question, which has tended greatly to retard and impede the introduction of a more regular and correct system.

14. Connected with this, the inexperience of Clerks necessarily employed in several of the Departments, particularly those of the Courts of Magistrates at a distance from Sydney, has, until lately, been the cause of burthening and interrupting the Current Duties of this Office, in a manner of which it would be difficult to give an adequate idea.

15. Notwithstanding the circulation of Forms and Regulations, the Police Accounts of those Districts, in which there are no Stipendiary Magistrates, continued for a long time to be furnished in

such a manner, and the urgency for their Settlement so pressing, that the Labour of making them up anew in this office could not be got rid of; and, though lately most of them are forwarded in a more regular Form, it is still occasionally found necessary to remodel and prepare the Accounts and Abstracts of some of the more remote Districts. 1828.. 28 July.

16. Previously to the Establishment of the Department of Customs, the inefficiency and irregularity which was found to prevail in the Department of the Naval Officer, on which the due Collection of the Revenue mainly depended, the Duties of this Office, in suggesting the necessary Forms and Checks, and in examining and reporting upon the Accounts of that Department, were such as to engross a great portion of the time and attention of the Persons employed in the Office, and indeed nearly two Months of last Year were entirely taken up in investigating and making up, from unarranged Documents, the Accounts of the Naval Officer for the two last Quarters previous to his suspension, involving Revenue upwards of £20,000 in amount. Former irregularities in naval office.

17. The great importance of these Duties may be appreciated by the fact that in the Year 1824, the Amount of the Duties on Imported Spirits and Tobacco collected by the Naval Officer Amounted to no more than £24,477 17s. 6d., Whereas in the Year 1825, after the effect of the Examination and the Checks originated by this Office came into operation, the Amount of Duties on the same Articles Amounted to £43,387 19s. 6d., making a difference of Revenue in favor of the latter Year of no less a Sum than £18,910 2s.; and, although it is not at all assumed that the difference was exclusively the result of the means suggested or adopted for checking these Accounts, yet I am satisfied it would not be arrogating too much to infer that the proceedings of this office mainly contributed to the result alluded to. Increased revenue due to improved methods.

18. Joined to other weighty obstacles, may be mentioned the accumulation of the current Business of the Office, before adequate assistance could be provided to meet it; and the total inexperience of some of the Clerks, whose services it was necessary to employ, at a time when those of more competent Individuals could not be procured; an obstacle which even to this moment I have not been able entirely to remove. Accumulation of business and incompetency of clerks.

19. The impediment, which has lately operated most seriously to the completing for transmission of the Accounts in question, was the circumstances attending the Introduction of the New Treasury Instructions in the course of last Year, not only so far as the carrying them into effect required the framing of Regulations, the preparation of Forms and their circulation to the various Departments, and was unavoidably attended with a degree of that inconvenience and delay, which every change of system, however judicious, rarely fails to produce; but more particularly as regarded the preparation of the Schedules of Fixed Establishment and Fixed Contingencies, the framing and transmission of which for the guidance of the Treasurer and Auditor were essential to a compliance with the said Instructions. Delay due to new treasury regulations.

20. On the receipt of the Instructions about the end of January last Year, His Excellency directed that they should take effect so far as practicable from the commencement of the Year; and, with the view to this, it was deemed expedient that, till the preliminary arrangements could be made, the Current Expenses should be

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temporarily provided for by "Advances on Account," which might come to be finally adjusted in conformity with the New Instructions, on these arrangements being completed.

Delay due to new treasury regulations.

21. The pressure of other Business and other unavoidable causes unexpectedly, however, delayed the Framing and transmission of the Schedules referred to for so long a time, that, on my return to the Duties of this Office on the 27th November, from which I had been absent since the beginning of June preceding, I found that the essential preliminary arrangement of the Framing, and transmission of the Schedules, referred to, remained still to be effected; and that the Current Disbursements continued still to be carried on by "Advances on Account" which then amounted to upwards of £60,000.

22. As it was urgent that these advances should be adjusted and finally accounted for without loss of time, and as directions had been given in the month of September preceding that the Schedules alluded to should be prepared in the Audit Office, they were immediately commenced upon; and, with the assistance from the Colonial Secretary's Office and other Departments, the Schedule of Fixed Establishment was completed on the 8th December, and that of Fixed Contingencies in the following Month.

Completion of delayed schedules.

Adjustment of advances on account.

23. For a considerable time after the completion of these Schedules, the adjustment of the "Advances on Account," which had been postponed till the Schedules had been prepared, the attention of this Office was almost exclusively occupied with the examination of Abstracts and Accounts, on which the advances had been made, and in preparing Warrants for their final adjustment, a Duty which, with the carrying on of the Current Business, rendered it impracticable to attend to the Settlement of Accounts for the Previous Year.

Estimated delay.

24. In estimating the extent of the obstruction to which the introduction of the New Instructions under the circumstances pointed out unavoidably gave rise, it would not it is believed be too much to rate the additional Labour and delay, thereby occasioned, at double that which would now be requisite; or, in other words, that the Examination and Settlement of two Years' Accounts, under the Instructions as now in operation, could be effected with equal or even greater facility than those for the Year 1827 under the circumstances as above explained.

Statements prepared.

25. While the adjustment of the Advances on Account, made in the Year 1827, was going on, Statements were called for, which required much time and Labour in the Compilation: amongst others a General Statement of the Receipts and Expenditure on Account of the Colony for the last three Years for the information of a Committee of the House of Commons, Statements for the Publication of the Receipt and Appropriation of the Colonial Revenue for the two last Years, and others of a similar nature, which, with the current Business and the adjustment of the Advances in 1827, continued to engross so much of the attention of this Office and for so long a time that it was only recently that there was leisure for reverting to preparing for transmission the Accounts of the last and previous Year.

26. This postponement, though much to be regretted, was considered of less consequence as the Examination which these Accounts had already undergone, though not complete, sufficiently made it appear that the Treasurer's Accounts for those Years had

been satisfactorily made up, and that they were defective chiefly in formalities and in some explanations and remarks, which it would be requisite to transmit with the Accounts for the information of the Auditors in England, the more particularly so as the Statements of these Accounts, which had been prepared for the information of the Authorities in England, would put them in possession of accurate information as to the state of the Receipt and Expenditure of the Colony for the two Years in Question. 1828. 28 July.

27. I am fully aware however of the great importance of the Public Accounts of the Colony being forwarded with punctuality as required, and shall therefore make every effort to prepare the Accounts in Arrear for transmission, by as early a conveyance as possible; and that as many of the causes of the delay in forwarding these Accounts are now removed, I trust that, should the opportunity be permitted me, the Accounts of the present Year will be duly forwarded at the time required, and that, after the present Year, I shall not have again the painful duty of accounting for delay or want of punctuality in their transmission. Transmission of accounts to be expedited.

28. In regard to the last point of information required in your Letter, I beg leave to inform you that I have examined and stated with great minuteness the Public Accounts of the Colony from the 1st September, 1823, to the 31st December, 1825, and that the Examination of the Treasurer's Accounts for the Years 1826 and 1827 is, as has already been stated, in such a state of forwardness, that I trust no considerable time will be required to bring it to a close.

I have, &c.,

Wm. Lithgow, Auditor.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 89, per ship Boddington.)

Sir, Government House, 29th July, 1828. 29 July.

I have the honor to forward for His Majesty's approbation as directed by the 30th Clause of the 5th Geo. 4th, Chap. 96, Four Copies of Five Acts, which have been passed by the legislative Council, "Vizt.":— Transmission of acts of council for approval.

An Act for adopting certain Acts of Parliament, passed during the Seventh and Eighth Years of His present Majesty King George the Fourth, for the Amendment of the Law, and the improvement of the Administration of Justice in Criminal cases.

An Act for adopting a certain Act of Parliament, passed in the Seventh and Eighth Years of His Majesty King George the Fourth, to regulate the Practice of Arrests.

An Act to enable the Proprietors of a certain Banking Company, heretofore carried on at Sydney under the Name and Designation of the Bank of New South Wales, commonly called the Old Bank of New South Wales, to sue and be sued in the Name of the President for the time being of the said Bank. And also to enable the Proprietors of a certain Banking Company* to be established in Sydney, under the Name, Style, and

 * Note 80.

1828. 29 July.

Transmission of acts of council for approval.

Form of the Bank of New South Wales, to sue and be sued in like manner in the Name of the President for the time being, and for other Purposes therein mentioned.

An Act for ascertaining* the Number, Names, and condition of the Inhabitants of the Colony of New South Wales; and also the Number of Cattle and the quantity of located, cleared and cultivated land within the said Colony.

An Act for the better regulation of the Hulk or Floating Prison in Sydney Harbour and for establishing Houses of Correction in Sydney. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 90, per ship Boddington; acknowledged by Sir George Murray, 11th April, 1829.)

30 July.

Sir, Government House, 30th July, 1828.

Pension granted to T. Dunn.

I have the honor to report to you that I have authorised, with the advice of the Executive Council, the issue of a Pension of *£50* a year to Mr. Thomas Dunn, the late Chief Constable of Sydney, until I receive your orders on the subject.

Mr. Dunn's Salary was £150 a Year. He had served diligently and faithfully for a period of Seventeen Years, but has now been obliged to retire, his Age and infirmities rendering him Unequal to the Active Duties of the Situation of Chief Constable in Sydney.

I have not thought it necessary to trouble you with Mr. Dunn's Memorial or a Copy of the Minute of Council, the above being a Summary of his case. I should not however omit to state that Mr. Dunn's Memorial is recommended and his Services are attested by the Signatures of the Principal Officers of the Government and the Magistrates of Sydney. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch marked "Separate," per ship Boddington.)

Sir, Sydney, 30th July, 1828.

Despatches acknowledged.

I do myself the honor to acknowledge the receipt of your two Despatches of the 11th February last, one numbered "15" and the other marked "Separate," on the subject of the Archdeacon's complaint of the proceedings of Mr. Justice Stephen in the Supreme Court, and, in obedience to your Orders, I have communicated with Archdeacon Scott relative to the former.

With respect to your "Separate" Despatch, from which it is to be inferred, that it is stated, in Chief Justice Forbes's defence

* Note 81.

of Mr. Justice Stephen, that Mr. Stephen had placed my Letter and the Archdeacon's complaint in the hands of Mr. Wentworth, by which, "as was to be expected, the whole case immediately appeared" in the Australian Newspaper, I confess, I am at some loss to comprehend why it should have been necessary or even be supposed a probable course, considering the relative Situation of the Parties, for Mr. Stephen to have communicated with Mr. Wentwerth on the subject at all, though the cause of the Statement being sent Home, in defiance of the Rule recently established (the irregularity of which was pointed out to Mr. Stephen by me before his Statement was sent off) is not to be misunderstood. Had the Statement as drawn up by the Chief Justice come under my view, I should have had an opportunity of correcting any misrepresentation it might have contained; and, from the above and other circumstances, it is not unfair to presume that it was not a faithful representation of Facts. But the chance of exposure was of course diminished, which was an object to the Parties concerned, in proportion to the time that would elapse and the Events, which might occur, before I could be informed of its contents.

1828. 30 July.

Transmission of statement to England.

I persuade myself, Sir, you will not impute to me any thing so foreign to my Character, as a want of respect for your Station, when I express unhesitatingly my total disbelief of the fact that the circumstances, alluded to, reached the "Australian" in the manner pointed out in the Chief Justice's Defence of Mr. Stephen. I have on the contrary reason to think that it was communicated through the medium of Doctor Douglass.

Information given to *Australian* newspaper.

I have shewn, Sir, in my "Remarks" on the Statement of Mr. Forbes, which accompanied my Letter marked "Separate," of the 26th February last, that he is not remarkable for a strict attention to Facts, when an opposite course is better suited to his purpose.

Inaccuracy of statements by F. Forbes.

I must trust, Sir, under this Conviction that you will pardon my not having communicated to Mr. Justice Stephen the subject of your "Separate" Despatch now immediately adverted to. As to Mr. Stephen, who, poor Man, is a Tool in the hands of the Chief Justice, who works with him as best answers his immediate object, his further humiliation (having been recently censured) would be unavailing, while the Success of Mr. Forbes's Scheme, which would be rendered apparent, should a communication to the effect directed in your Letter be made to Mr. Stephen at the present moment, would operate as an Encouragement to Mr. Forbes to persevere in the Course he appears to have adopted as the Rule of his Conduct. I have, &c.,

Influence of F. Forbes over J. Stephen.

Ra. Darling.

1828.
30 July.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Boddington.)

Sir, Government House, 30th July, 1828.

Despatches acknowledged.

I have the honor to acknowledge the receipt of the several Despatches as dated in the Margin* which arrived by the Ships "Mermaid" and "Bussora Merchant" on the 5th and 26th inst. respectively, and I shall do myself the honor to reply thereto as soon as circumstances shall permit. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Boddington.)

Sir, Government House, 30th July, 1828.

Despatches acknowledged.

I have the honor to acknowledge the receipt of the several letters as dated in the Margin,† which arrived by the Ships "Mermaid" and "Bussora Merchant" on the 5th and 26th inst. respectively, and I shall do myself the honor to reply thereto as soon as circumstances shall permit. I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 17, per ship Royal Sovereign; acknowledged by Governor Darling, 21st May, 1829.)

31 July.

Sir, Downing Street, 31st July, 1828.

Transmission of statute 9 Geo. IV, c. lxxxiii.

I have the honor, herewith, to transmit for your information the copy of an Act, passed in the last Session of Parliament, intituled "An Act to provide for the administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof and for other purposes relating thereto."

2. This Statute has been passed in continuation and amendment of the New South Wales Act, 4th Geo. 4, Cap. 96. As it will be found to introduce some important alterations in the

* *Marginal note.—Mermaid*—Separate, 15th October, 1827; No. 19, 19 November, 1827; No. 20, 30th November, 1827; No. 21, 26th December, 1827; No. 22, 26th December, 1827; No. 23, 27th December, 1827; Circular, 29th December, 1827; Circular, 31st December, 1827; Circular, 8th January, 1828; No. 1, 17th January, 1828; No. 2, 18th January, 1828; No. 3, 23rd January, 1828; No. 4, 24th January, 1828; No. 5, 24th January, 1828; No. 6, 28th January, 1828; No. 7, 28th January, 1828; No. 8, 30th January, 1828; No. 9, 30th January, 1828; No. 10, 30th January, 1828; No. 11, 7th February, 1828; No. 12, 8th February, 1828; No. 13, 9th February, 1828; No. 14, 10th February, 1828; No. 15, 11th February, 1828; Separate, 11th February, 1828; No. 16, 17th February, 1828. *Bussora Merchant*—No. 17, 3rd March, 1828; No. 18, 5th March, 1828.

† *Marginal note.—Mermaid*—30th November, 1827; 5th December, 1827; 6th December, 1827; 7th December, 1827; 30th December, 1827; 9th January, 1828; 9th January, 1828; 12th January, 1828; 16th January, 1828; 16th January, 1828; 13th February, 1828; 14th February, 1828; 15th February, 1828; 16th February, 1828. *Bussora Merchant*—1st March, 1828; March.

1828. 31 July.

Judicial and Legislative Constitution of the Colony, it may be proper that I should explain to you the motives by which His Majesty's Government have been guided in proposing those Enactments to Parliament, although of course, in the execution and interpretation of the law, the intention of the Legislature must be collected exclusively from the language they have employed.

Reasons for alterations.

3. You and the Members of the Executive and Legislative Councils should be apprized that, in framing the Act which I have the honor to transmit, His Majesty's Government have availed themselves of the assistance of all persons from whom important local information was peculiarly to be expected. Your despatches have suggested various amendments, and others have been derived from communication with persons connected with the different classes of Society in the Colony. Whatever defects or errors may yet remain to be corrected in this law, they have at least not been occasioned by any remissness in collecting information or by listening to the advice of any one of the local interests, by which the Colony is divided, to the exclusion of the rest.

Information collected from various sources.

4. On comparing the present Act with the Statute of 1823, the first circumstance, to which your attention will probably be directed, is the omission of many topics* upon which, on the former occasion, Parliament thought it necessary to legislate. Of these the most important are the enactments respecting Foreign Attachments and Insolvency. It was thought that it would be at once inconvenient and useless to make any provision upon these subjects; inconvenient because it was impossible in this Country to attain an adequate knowledge of the local circumstances, with reference to which such enactments should be framed, and useless because the powers delegated to the local Authorities are sufficiently large to enable them to regulate these matters as they may deem most convenient. The enactments in the 36th Clause of the former law, respecting the detention of Convicts in New South Wales, have been excluded from this Act, as being rendered unnecessary by the 6 Geo. 4, Cap. 69, Sec. 4.† The Clause, which follows, respecting the punishment of Convicts at Sea, is not repeated, because adequate provision is made for the same purpose in the General Transportation Act.† The other omissions will be noticed under the different heads to which they more particularly relate.

Omissions from 4 Geo. IV, c. xcvi.

Enactments *re* foreign attachments and insolvency;

detention of convicts;

and punishment of convicts at sea.

5. The general constitution of the Supreme Court, and the mode of trial both in Civil and Criminal cases established by the former Act, have been retained in this Law. Upon the subject of Trial by Jury, two important changes have been introduced. In the former Act, Trial by Jury in Civil cases was to

Constitution and procedure of supreme court.

* Note 82. † Note 83.

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Trial by jury at discretion of court.

take place only when both the parties concurred in the application for a Jury. In this Act, the Court is authorised on the application of either party to award or to refuse a Trial by Jury, as the justice of each particular case may seem to require. The qualification of the Jurors, and whatever respects the general constitution of the Jury, has been left by Parliament to the regulation of the Governor and Legislative Council. I am well aware that this Enactment may possibly induce a very great change in the practical administration of the law. It is probable that, in the great majority of cases, one or other of the litigant parties will apply to the Court for Trial by Jury. Indeed the real or supposed reluctance of one party to resort to that mode of Trial would probably be an adequate reason for the preference of it by his antagonist. It will, therefore, remain with the Judges to exercise a sound discretion in these cases, uninfluenced, as of course they will be, by any other motive than the desire of discharging aright the sacred trust reposed in them. That many cases will arise, in which the application for a Jury ought to be refused, is obvious. The dissensions, arising out of the peculiar Constitution of Society in New South Wales, may often deprive one of the parties in a Civil Suit of the chance of an equal and impartial Verdict. Many Civil Actions may indirectly involve Public questions, upon which great popular excitement may have arisen, and in these cases the Verdict of a Jury, under the influence of such temporary excitement, might be an unfair criterion of truth. Or cases may arise where, either from the peculiar complexity or from the technical nature of the question in dispute, a Jury may be unequal to the decision of it. In all the cases which I have supposed, and in others which it would be unnecessary more particularly to specify, I presume that, in the exercise of the discretion entrusted to the Court by Parliament, the Judges will feel themselves bound to refuse Trials by Jury, however much opposed such decisions may be to the current of popular feeling. Had not His Majesty's Government felt themselves entitled to repose the most implicit confidence in the integrity of the Judges, they would not have recommended to Parliament a measure of this nature. But in that confidence it has been thought more wise to vest a discretionary authority in the Court than to lay down any one general and inflexible rule.

Extension of trial by jury by governor in council in pursuance of order from King in council.

6. You will perceive another material distinction with respect to Juries between the Acts of 1823 and 1828. The former Statute authorised *His Majesty in Council* to extend the Trial by Jury in the Colony. The present Act commits the same authority to *the Governor*, acting with the advice of *the Legislative Council*,

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in pursuance of any Order to be issued by His Majesty in Council. It was thought convenient that all details respecting the Constitution of Juries, and respecting the introduction of Jury Trials, should be regulated by the local Legislature which, from its greater acquaintance with local circumstances, could alone perform that duty in a safe and proper manner. For this reason, all such Enactments will be best comprized in a local Ordinance. On the other hand it was considered that the Governor in Council ought not to bear the undivided responsibility of making or of withholding this concession. Had Parliament invested them with an absolute right of establishing Trial by Jury, the refusal to exercise that right might have exposed them to unremitting censure and hostility. It was, therefore, deemed wise that His Majesty in Council should first impart the necessary powers to the Colonial Legislature. The refusal, so long as the measure is to be refused, will then proceed from an authority not obnoxious to the charge of prejudice in favor of any party in the Colony. For the present, I am not prepared to advise His Majesty in Council to impart to you and the Legislative Council of New South Wales the power of introducing Trial by Jury. This is a subject of such extreme importance that I have judged it more prudent to pause, until I can receive a full report upon the question in all its bearings. It will be among the earliest duties of the Legislative Council to take this subject into their deliberate consideration, and I shall expect to receive from you a full report explaining the views, entertained by yourself and by every other Member of the Legislative Council, as to the expediency of an alteration of the law, in this respect, and as to the specific alterations which it would be most desirable to make.

Extension of trial by jury by governor in council in pursuance of order from King in council.

Report required *re* extension of trial by jury.

7. Respecting the Jurisdiction of the Supreme Court, the Statute of 1823 remains in general unaltered. It may, however, be observed that the present Statute imparts to that Tribunal a common-law jurisdiction analogous to that which is possessed by the Lord Chancellor in England. The want of this authority has been considered in Van Diemen's Land to oppose an insuperable obstacle to the recovery of certain dues of the Crown.

Jurisdiction of supreme court.

Common law jurisdiction.

8. Under the former Statute, the power of prosecuting by Criminal Information was exclusively vested in the Attorney General or other Officer to be appointed for that purpose. By the present Act, the Court is authorised to permit Criminal Informations to be filed at the instance of any other person. This addition to the law has been made in consequence of the difficulties which have arisen, as to the mode of proceeding in those cases where the injury, though in strictness of law a breach of

Criminal prosecutions.

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the peace, is in truth and substance a private wrong. Such for example are the cases of private libel and various descriptions of assault. On such occasions, a public prosecution would often be an unjust and still more often an inexpedient measure. The Court, therefore, is authorised to allow private prosecutions. But, in the case of libels, great injustice would arise, if it were laid down as an inflexible rule that the Prosecutor must always exculpate himself from the charge. Sometimes this might be reasonable and just, as it always is in England, where the Prosecutor, if the Criminal information be refused him, has it always in his power to carry a Bill of Indictment before a Grand Jury. But charges might be made which, though incapable of denial, ought yet to subject the Publishers of them to punishment. Thus, for example, if a man were publicly charged with habitually harboring in his mind corrupt or malevolent sentiments the charge might not be susceptible of contradiction on oath, and yet ought not to be made with impunity. But, as it is clearly impossible to draw distinctions of this nature in the body of the law itself, it was judged right to entrust the Court with a discretionary power of requiring or dispensing with Affidavits of exculpation from the Prosecutor. It may, further, be remarked that the extraordinary powers vested in the Attorney General will, in some degree, be qualified by this Enactment, since, in cases of crimes not capital, private prosecutors may with the leave of the Court proceed against Offenders, whom the Attorney General may have improperly neglected to put upon Trial.

Discretion of court to allow private prosecutions.

Powers of attorney-general.

Institution of circuit courts.

9. Provision is made for the institution of Circuit Courts. This is a subject upon which it is necessary that the Legislative Council should assist you, in reporting to me how far it would be convenient that His Majesty in Council should exercise the powers entrusted to Him by Parliament, and what should be the provisions of any Order in Council upon the subject.

Abolition of appeals to governor.

10. You will perceive that the Appellate Jurisdiction, formerly vested in yourself, has been taken away by the present Act; and that henceforward Appeals will be brought directly to the King in Council. This is a subject which has undergone a very full consideration, and I cannot too explicitly state that the alteration, which has been made, was not adopted upon any surmise, far less upon any proof, that the Powers entrusted to you by the former Act had been improperly or injudiciously used. His Majesty's Government were fully aware that, in this case, they had to make the choice between opposite difficulties. The danger of leaving the Judges totally exempt from all local control in the exercise of their very large powers was (without the slightest

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disrespect to them) sensibly perceived. But to this consideration was opposed the reliance, which experience has shewn, may be placed in the integrity of English Judges, administering the law in open Courts in the presence of a well-informed Bar, and of persons competent and well disposed publicly to discuss the soundness of their decisions. The apparent incongruity of appealing from three professional Judges to a Governor uninstructed in the law, and the delay and expense of such an intermediate appeal, seemed to afford strong arguments in favor of a change.

Abolition of appeals to governor.

11. Under the former Act, the Courts of New South Wales and Van Diemen's Land adopted opposite opinions upon the question, whether in any prosecutions before the Quarter Sessions, it was necessary to proceed by a Grand and Petty Jury. His Majesty's Government have, of course, hitherto left the decision of that question to the Tribunals to which it properly belonged. But, upon the revival of the law, it became necessary to set the question at rest by a direct enactment. No sufficient reason has been suggested, why a mode of trial should prevail in the Inferior Court, differing essentially from that which has been established in the Supreme Court. The same reasoning applies with equal force to the two cases; and the present Act has accordingly provided that the form of trial, used in the Supreme Court, shall be observed in the Quarter Sessions, except in the case of Convicts, who are to be tried as formerly in a summary manner. Parliament, however, has granted the power of instituting Courts of Quarter Sessions to the Colonial Legislature, instead of erecting them by a direct Parliamentary enactment, because the number of such Courts, and the times and places, at which they may most fitly be held, are subjects upon which the local Authorities are alone competent to decide.

Procedure in trials at quarter sessions.

Power to institute courts of quarter sessions.

12. Upon the subject of legislation, some important changes have been introduced by the present Enactment. Under the former Statute, the Council was to consist of a number not exceeding seven nor less than five. Under the present Act, the highest number is fifteen and the lowest ten. The Government were induced to recommend this increase in the number of the Council from consideration of the rapid increase in the population, and because there has seemed reason to fear that so small a body, as the former Act contemplated, could not exercise powers so extensive without exciting serious discontent and jealousy in the Society at large. By adding to the number of the Members of Council fairly selected from the more intelligent, wealthy, and respectable Members of the Commercial, Agricultural, and Professional Bodies of the Colony, it has been hoped

Increase in number of legislative council.

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that a Legislature might be formed, adequate by representing the various interests of the Colonial Society, and likely at once to receive a salutary influence from Public opinion, and to exercise a wholesome control over it.

Omission of statutory regulations *re* convening of council.

13. In the Statute of 1823, provision was made for the manner of convening Meetings of the Council, and questions seem to have been raised in the Courts, as to the necessity of proving the due observance of those forms, as often as any local Ordinance was to be enforced by a Judgment of the Court. It was, therefore, thought convenient to abandon these enactments; it being however intended that the Rules, prescribed in the former law for the regular convening all Meetings of Council, should be strictly observed by the Governor, not as a statutory obligation but in obedience to the instructions of His Majesty's Government. You will, therefore, consider those Rules as still in force for the guidance of your own conduct.

Rules for meetings of council.

Rules for procedure of council.

14. The former Act seemed defective in Regulations respecting the manner of proceeding on the Meetings of the Legislative Council. While on the one hand the inconvenience of very minute rules of this nature was distinctly felt, on the other hand the total absence of positive regulations appeared likely to induce an improper laxity of proceeding. The course adopted has been to lay down the five following Rules, each of which seems to be essential to the proper conduct of business. The first, that the Council shall never be competent to act unless two thirds, at the least, of the whole number of the Councillors, exclusive of the President, shall be present. The second, that the acts of the major part of the Members so present shall be taken to be the Acts of the whole Council. The third, that the dissent of the majority of the Members present shall prevent the enactment of any law. The fourth, that, if the Governor shall refuse to lay before his Council any proposal made by a Member for the enactment of any law, he shall, if required, lay before the Council a copy of the proposal and of his refusal; it being permitted to every Member to enter upon the Minutes a written protest against such refusal. Fifth, that the Members dissenting shall enter upon the Minutes the grounds of their dissent. To these five Rules, a material addition has been made with reference to the part which the Governor has to take in the proceedings of the Council. It appears from your despatches to have been your practice to absent yourself from the Legislative Council in deference to an opinion of the Chief Justice. His Majesty's Government were unable to acquiesce in the propriety of that opinion. They deemed the presence of the Governor at the Council a matter of the highest importance. It seemed to

Necessity for governor's presence at debates.

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Necessity for governor's presence at debates.

them that his exclusion not only tended to lessen his consequence, but that it would have the effect of exempting him from a responsibility which it was peculiarly necessary that he should sustain. The frank but respectful discussion in his own presence, and with his assistance, of the measures, he proposed, was thought the most convenient method of correcting any errors of Judgment or defect of information under which he or his Councillors might labor. Nor did it seem reasonable to doubt that the necessity of partaking in such discussions would lead to great additional circumspection in framing and considering his own measures. That a Governor might overawe the Council by his authority is of course a possible danger. But, of course, some risk must be incurred; and His Majesty's Government indulge the fullest expectation that no gentleman, who may be honored with the King's Commission as Governor of this important Settlement, will be so forgetful of his duty as to oppose any impediment to the full and free discussion of every question brought by himself before the Council. I cherish an equal hope that the Members of Council will bear in mind the duty of maintaining all due courtesy and respect towards the Governor in the conduct of these discussions. Under the influence of these considerations, the Enactments were proposed which require the Governor to attend all Meetings of the Council, and which give him both an original and a casting Vote. The augmented number of Councillors appeared to require this last Regulation. Whatever subordinate Rules may be thought wise for the better conduct of business in the Council will be established by the Resolutions of that Body as occasion may require.

Enactment *re* attendance of governor at council.

15. The Act of 1823 limited the Legislative powers of the Governor in Council by a Rule, which has unfortunately been the occasion of serious embarrassment and dissension between Officers of the highest authority in the local Government. I advert to the 29th Clause which required a Certificate of the Chief Justice that every law, proposed to the Council, was "not repugnant to the Laws of England, but consistent therewith so far as the circumstances of the Colony would admit." There is no principle of Colonial law more firmly established than that a Colonial Legislature cannot enact local Statutes repugnant to the law of England. This Rule has been reiterated in Acts of Parliament, in Royal Commissions, and in Judicial decisions during the last two Centuries. But the precise and definite meaning of the Rule, and its various limitations, have, it must be confessed, been left in much obscurity. For my present purpose, it is enough to say that it is well established that a Colonial

Former provision for certificate by chief justice *re* acts not repugnant to English law.

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Legislature cannot allow any act to be done which Parliament has prohibited; that, where Parliamentary and Colonial Legislation directly clash, the authority of Parliament is supreme and must be followed; and that in all Colonial Enactments the general principles of the law of England must be followed, except when local circumstances imperiously demand some departure from them. From the general rule thus understood, Parliament will be found not to have departed on the present occasion. But, upon a very full and frequent consideration of the subject, it was deemed right to abandon so much of the Act of 1823 as rendered the Judge's Certificate, that the Rule had been observed, a necessary preliminary to the enactment of every law. I abstain in this place from commenting upon the results of past experience. It is enough to say that such a system presented an almost inevitable occasion of disputes between the Executive and Judicial Authorities. The great compensatory advantage seemed to be the prevention of any public collision between them. Without such a previous reference to the Judge, he might have found himself often required in open Court, to deny the validity of a Colonial Ordinance on the ground of its repugnancy to the Law of England. To combine, as far as possible, the advantages of a strict observance of the general rule, and of harmony between the Judges and the Legislature, it has been provided in the present Act that every law shall within seven days from its date be transmitted to the Supreme Court for Enrolment. The Judges will then have a further period of seven days within which to represent to the Governor any objection they may entertain to the Law on the ground of its supposed repugnancy to the Law of England. Those objections will then be considered in Council; but, if the Council should ultimately adhere to the law, it is to take effect until the Royal Pleasure be known. Provision is thus made for fully learning the views of the Judges upon the Law, and for preventing their refusing to execute any law, which may be passed after a full consideration of their objections. I cannot, however, too earnestly impress upon you the necessity of giving to the opinions of the Judges, especially when unanimous, the weight to which, on every account, they are so justly entitled. Nothing but the most urgent necessity should induce the enactment of a law which they shall have unanimously declared repugnant to the Law of England.

Experience of former provision.

Acts to be enrolled in supreme court.

Objections to be considered by council.

Validity of statute and common law in colony.

16. To what extent the Statute and Common-law of England is actually in force in the Colony is a question which, I am aware, has excited the most frequent and eager controversy. It was the proposal* of the Chief Justice to enact that the English

* Note 84.

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Statute Law, made previously to the erection of a Colonial Legislature, should be binding on the Colonists. Great credit is due to the learned and ingenious reasoning with which he supported this proposal. But it has been thought better, at the expense perhaps of theoretical accuracy, to adopt a different date, and to declare that the Statutes of this Realm, including those of the present Session, are in force in the Colony, in order that the inhabitants may have the benefit of the great improvements which have recently been made by Parliament in the Criminal Law of England. Of course it has been necessary to qualify the Rule by declaring that the English Law is in force, so far only as the same can be applied. That this exception is itself extremely vague, I am well aware. But, perhaps, upon this subject it would be impossible to find any more definite terms. Provision is, however, made for enabling the Local Legislature to determine whether any particular part of the English Law is or is not applicable. In the absence of a declaratory Ordinance of that nature, the decision of the question is left to the Court. I trust that this will be found a sufficient practical solution of the difficulties on this subject, which have been so much agitated, not in New South Wales only, but in almost every other Colony.

Validity of statute and common law in colony.

17. The power of levying duties under the Statutes of the 59 Geo. 3d and 3d Geo. 4th, and of appropriating the produce of such duties, has been transferred from the Governor to the Governor in Council, in order to maintain uniformity in the management of the Colonial Revenue.

Power to levy duties.

18. It has been thought right to exclude from the present Act those provisions of the Statute of 1823, which in certain cases enabled the Governor and His Majesty in Council to legislate in opposition to the advice of the Members of the Council of the Colony. It was thought, upon consideration, inexpedient to suppose and to make provision for extreme cases, because in truth such cases, when they occur, will usually be found to make an adequate provision for themselves, and because evils of this nature may sometimes be excited by the express anticipation of them.

Abolition of right of governor and King in council to legislate.

19. The former Act ascertained the precise rank and precedency of the Members of Council. This has been omitted in the recent Statute because it is needless and improper to settle by Parliamentary authority a question which properly belongs to the King's prerogative. It is, however, His Majesty's Pleasure that the official rank, hitherto enjoyed by the Members of Council, should still be reserved to them.

Omission of reference to precedency.

20. The oath of secrecy, which the Members of Council were required to take under the former law, is not prescribed in this Act.

Abolition of oath of secrecy.

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Abolition of oath of secrecy.

Independently of the general objection to the multiplication of Oaths and especially of promissory oaths, it has been thought in this case that the disadvantages of secrecy were not compensated by the benefit derived from it. A law is then most properly framed and most likely to be followed by prompt and cheerful obedience when the feelings and even the prejudices of the People are to a certain degree consulted in its formation; and the public discussions, which precede and in some measure direct the enactment of laws in a free Country, at once prevent many practical errors and facilitate the execution even of unpopular Statutes. Without concealing from themselves the difficulties in which the Governor in Council might be involved by public discussions, contemporaneous with their deliberations, His Majesty's Government have thought that it was wiser to incur this inconvenience than to lose the benefit of the re-action of public opinion upon the Legislative Body pending the enactment of laws. So far, indeed, has it been deemed right to provide for the publicity of all legislative proceedings, that the Governor is required to transmit, for insertion in the Colonial Newspapers, eight days before the enactment of every law, a notice of its general objects, except when the emergency of the occasion may prevent the publication of such a notice. It was not intended, however, that the observance of this condition should be essential to the validity of the law. It was intended only as a Parliamentary direction to the Governor.

Instructions *re* preliminary announcement of enactments.

Power of governor over convicts.

21. The power of the Governor of New South Wales to issue Tickets of leave or to withdraw assigned Convicts from their Masters is so obviously essential to the good government of the Colony, that Parliament has in the present Act been induced to place it beyond dispute. I perceive, however, that, in the printed copy of the Act, this Clause is inserted by accident in a place where it should not have been introduced.

Reasons for omitting enactment for restraint of press.

22. Having thus adverted, in their order, to all the material alterations in the New South Wales Act, I must advert to one topic upon which it will probably have been expected that the decision of Parliament would be explicitly declared. I allude to the law respecting the unlimited freedom of publication of Newspapers. In consequence of the frequent and earnest representations, which have reached my Predecessors in Office on this subject, the question could not fail to engage the peculiar attention of His Majesty's Government. They were, however, deterred from proposing to Parliament the enactment of any restrictive law by the apparent impossibility of exhibiting that complete and minute evidence of the consequences resulting from the present system, and likely to result from a change in

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it, without which it would have been unfit to call for Parliamentary aid. If the law of the Colony be unequal to repress the abuses against which such earnest remonstrance has been made, and if those abuses do really threaten the peace and safety or are undermining the prosperity of the Colony, the right of the Colonial Legislature to check so formidable a mischief by strong measures would be indisputable. But to them, in the first instance, the decision of this most important and delicate question must be referred. In forming that decision, it will be their duty to disregard alike unreasonable alarms and popular clamor. Without a very grave and serious occasion, they will not fetter a privilege which, in its legitimate exercise, is so highly conducive to the welfare of Society, and, with such an occasion, they will not shrink from adopting measures which will often be unpopular in proportion to their necessity.

Reasons for omitting enactment for restraint of press.

23. In conclusion, I am to direct you to lay this despatch before the Legislative Council at their first Meeting. You will assure them that His Majesty's Government look forward with hope, but not wholly without anxiety, to the result of the measures which at their instance Parliament has adopted. Placing every reliance on the zeal, intelligence and industry of the Members of Council, and the Chief Officers of Government, I persuade myself that no effort will be wanting to advance the prosperity of the Settlement in the exercise of the powers delegated to them by this Act. On the other hand, I cannot conceal from myself the fact that, in very recent as well as in earlier times, the Colony has been agitated by dissensions highly injurious to its real prosperity. I trust, therefore, that I shall not be thought uncourteous to any Member of the Colonial Administration in impressing upon them, collectively, the duty of cultivating a spirit of conciliation and good will. Without those mutual concessions, which are required in the conduct of every great undertaking, I fear that the progress of this valuable and important Settlement will be materially impeded; and that the unremitting exertions of the Government and people of Great Britain for its welfare will, for the present at least, be frustrated. It will, I am sure, be sufficient to have adverted in these general terms to this topic; and I cannot close my present despatch without conveying through you to the Members of the last Council the expression of His Majesty's gracious acknowledgment of the laborious and praiseworthy manner in which they have, for several years past, gratuitously discharged the difficult duties to which they have been called.

Despatch to be submitted to council.

Mutual concessions necessary.

Commendation of members of council.

I am, &c.,

G. Murray.

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31 July.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 18, per ship Royal Sovereign.)

Sir, Downing Street, 31st July, 1828.

Arrangements for transfer of coal-mines to A.A. company.

It will, doubtless, be in your recollection that at one time it was the intention of His Majesty's Government to grant to the Australian Company, upon certain conditions, a lease of all the Coal Mines at Newcastle including those which, theretofore, had been worked on account of the Government. A difficulty, however, arose as to the Company's holding a lease of Mines, specifically so called, and it was then deemed more expedient that they should receive a tract of land, including the spot where the Mines were situated; it being the opinion of His Majesty's Law Officers that any Mines of Coal found under the surface of the Land granted to them (if not specially excepted in the grant) would by such grant pass to the Company and that the right of raising and selling it at the Pit's mouth would consequently be vested in them, provided they did not employ in that service so much of their Capital as to interfere with the objects for which they were incorporated.

Instructions *re* land at Newcastle.

It was under these circumstances that instructions were forwarded to you to authorize the Company's Agents to take possession of a Tract of land, not exceeding 500 acres, on the banks of the Coal River, provided that the Company were not already in possession of 2,000 Acres which had formerly been offered to them in the same District; in which case they were not to receive the additional lands then mentioned.

Explanation expected from R. Darling.

His Majesty's Government have delayed communicating with you on this matter in the expectation of receiving a full explanation of the grounds upon which you had been induced to withhold from the Company possession of the Tract of 500 acres, which you were directed to place at their disposal; and your having failed to apprize this Department of your having so withheld it is the more to be lamented, because the Company have, as indeed was to have been foreseen, applied for indemnification in consequence of the great expense which they had incurred in the Colony without any return, and of the injury occasioned for want of use to their Machinery.

Although these applications could not be specifically granted, yet the considerations, by which the Australian Company have pressed upon His Majesty's Government the necessity of carrying into effect the arrangements which had been actually agreed to, oblige me now without further delay to transmit to you definite instructions upon this subject. I have, accordingly, to desire that you will immediately grant to the Australian Company a Tract of 500 acres on the banks of the Coal River at

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Instructions to grant land to A.A. company.

Newcastle, and you will permit their Agents to select the land which they may consider best adapted for the purposes of their dealing in Coal, allowing them however only such a proportion of frontage to the water as the convenient shipping and working of the produce of the Mines, opened, or to be opened, may liberally require on the water-side. If the Company have already been allowed to take more than 1,500 Acres of a tract of 2,000 acres on the banks of the Coal River, of which Lord Bathurst's instructions to Sir Thomas Brisbane, dated the 18th of May, 1825, authorized the grant to them, then the Company will, on receiving the now proposed Grant of 500 acres, give up whatever part of the last mentioned Tract they may already possess beyond 1,500 acres, so as that their whole possession, under the instructions of the 18th May, 1825, and under the present instructions, coupled together shall not exceed 2,000 acres in the aggregate. If they have received no part, or a part less than 1,500 acres, of the Tract of 2,000 acres, mentioned in the instructions of 18th May, 1825, you will grant to them, in addition to the 500 acres, so much land as they may wish to have not exceeding, with the 500 acres, the aggregate of 2,000; and in this last case you will allow their Agents to select the land which, in addition to the 500 acres, is so to be granted to them, in the same manner and subject to the same restrictions as to frontage, which have been already specified with respect to the 500 acres.

Coal-mines to be included in grant.

In the 500 acres now proposed to be granted, it is intended that the works, which have hitherto been carried on by the Government, be included, should the Company wish it; and this not as matter of favor to them but on public grounds; for I am averse upon principle to the carrying on of works of this description as Government concerns.

Assigned convicts for company.

The assistance required by the Company in regard to Convict Laborers must, necessarily, depend upon the means which the Colonial Government may have at its disposal for affording it: but, as in the present instance the Government will cease to raise the Coal, which may be required for the general purposes of the Colony, every possible facility and encouragement for this object should be afforded to the Company, so that no scarcity of this Article may take place, and that the quantity raised may be, as far as depends upon the assistance of Convict labor, at all times if possible adequate to the demand.

Production of coal to be encouraged.

Intended lease of coal-mines.

By the original agreement* which it was proposed to enter into with the Company, and which would have been carried into effect, had the legal difficulties, alluded to in the early part of this despatch, not occurred, the Company were to receive a lease of the Coal Mines at Newcastle in New South Wales for the

* Note 84.

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term of 31 years on payment of a portion of the produce, not less than a twentieth nor more than a fifteenth at the option of the Government.

Quit rent to be perpetual on coal lands.

As the footing upon which this question now stands has been materially changed by the substitution of a grant of a comparatively small number of Acres for a lease of the whole of the Coal Mines at Newcastle, I am of opinion that it will be sufficient to charge the 500 acres, as well as the other 1,500 taken or to be taken, with the usual Quit Rent, to be determined by the Surveyor according to the value of the land for an ordinary superficial occupation and not with reference to its value as Mine Land; which quit rent, however, as to the 500 acres, and as to so much more of the land to be comprized in the aggregate of 2,000 and not already granted to the Company, as shall consist of Coal land, is not to be redeemable; and it will be proper to insert a condition with respect to the 500 acres, and any other Coal land not already granted, that all such ground may be resumed by the Crown with the permission of His Majesty's Government in England, after reference to them by the Governor, if in any year the Company shall raise a less quantity of Coal than two thirds of the weight which, on an average of the three years ending 31st December, 1828, has been yearly raised from the Mines which are now wrought by the Government; and a stipulation is also to be inserted that Government shall be entitled, in perpetuity, to all Coal wanted for its own consumption not exceeding in any case one fourth of the average annual produce of the Mines included in the 500 acres to be delivered at the Pit's mouth at prime cost. This prime cost shall be ascertained upon a periodical statement to be made by the Company's principal manager of the Mines, founded upon the Company's books made up to the 30th of April of each year, which statement he shall be called upon to verify by satisfactory proof, or by submitting himself to such personal examination as the Colonial Government shall deem necessary.

Coal land to be resumed if production of coal reduced.

One-fourth of coal output for government at prime cost.

Method for ascertaining prime cost.

Monopoly for A.A. company for term of years.

As the Company will have incurred a great preliminary expense for a public benefit, which expense they ought to have a fair opportunity of repaying to themselves, His Majesty's Government deem it proper to desire that, for the next 31 years, no Governor will grant or convey any Coal Mines, or land containing any Coal Mine, without a specific exception of the Coal in such grant or conveyance, nor afford any assistance in Convict labor for the working of any Coal Mine, to any other Company, or to any individual or individuals without the previous sanction of the Government at home; a sanction which would

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probably be granted, if the Company should avail themselves of their monopoly to impose an exorbitant price upon Coal, the produce of their Mines.

Instructions *re* working of mines pending transfer to company.

As there is reason to apprehend that the Establishment of Officers and Servants, engaged by the Company, may, from the length of time which has elapsed since their arrival in New South Wales, have become in a degree disjointed and dispersed, and that the Company may from that cause be unable to begin their operations so early as could be wished; and in order that in the mean time the public may sustain no interruption in the supply of Coal in the Colony, you will consider yourself authorised to continue the works at Newcastle upon the present plan for a period not exceeding one year from the arrival of these instructions, unless the Company shall be sooner prepared to relieve you from such charge within that time, in which case possession will of course be given to them accordingly. I am, &c.,

G. Murray.

Sir George Murray to Governor Darling.

(Despatch marked "Separate," per ship Royal Sovereign; acknowledged by Governor Darling, 21st May, 1829.)

Sir, Downing Street, 31st July, 1828.

Problem of restraint of press.

With reference to my despatch of this date No. 17, explanatory of the Act of the last session of Parliament making provision for the Government of New South Wales and Van Diemen's Land, I have to call your attention to a topic upon which I have not deemed it expedient to enter at length in a document which will be laid before the Members* of the Legislative Council. I refer to those restrictions upon the publication of Newspapers in the Colony which have formed the subject of such frequent correspondence between yourself and my Predecessors in office.

Reasons for omission of enactment in N.S.W. bill.

When the recent Act was introduced into Parliament, the expediency of legislating upon the subject of Newspapers in New South Wales and Van Diemen's Land unavoidably engaged the careful attention of His Majesty's Government. In addition to the reasons, mentioned in my despatch of this date, for declining to propose to Parliament any enactment of that nature, the Ministers of the Crown were influenced by the conviction that such a proposal could not have been attended with success.

In remitting the question to your consideration and that of the Legislative Council, I feel that I am imposing upon you an arduous duty, from the responsibility of which I shall, as far as possible, endeavour to relieve you.

* Note 85.

1828. 31 July.

Controversy with F. Forbes.

The protracted discussions between you and the Chief Justice of New South Wales on the subject of Newspapers in that Colony, and the proceedings of the Supreme Court upon various Trials for libel, have engaged my very anxious consideration; and I propose, by a very early opportunity, to communicate to you upon the whole of the series of unfortunate controversies which those discussions and proceedings have occasioned.

Confirmation of opinion by F. Forbes.

For the present I confine myself to the observation that the Law Officers of the Crown have confirmed Mr. Forbes's opinion that the Legislature of New South Wales could not lawfully

Objections to licensing of newspapers.

restrain the publication of Newspapers without Licenses. You will, therefore, consider this species of restraint as a remedy to which resort must not be had.

Cases may of course arise of such extreme urgency as to supersede the application of all ordinary principles of law. For such possible, though as I trust, highly improbable emergencies, such temporary provision must of course be made as the necessity of the case may require. But, in any ordinary state of society, the previous condition of obtaining a License must not be required.

Instructions to introduce stamp act.

The imposition of a Stamp duty even to the amount of four pence, is regarded by the Law Officers of the Crown as not repugnant to the law of England. You will, therefore, propose the re-enactment of a Stamp Act of this nature. But it is necessary strictly to adhere to the principle that the duty must be bonâ fide levied with a view to Revenue, and that the amount must not be regulated by the supposed advantage which might arise from suppressing or impeding the publication of Newspapers in the Colony.

The Act* for regulating the publication of Newspapers, so as to secure proof of authorship, having been already passed, it is unnecessary to make any further remark on that subject.

Security to be taken from editors and publishers.

Other securities against the abuses of the periodical publications of the Colony may perhaps be taken by requiring from the Editors or Publishers security to pay such Fines or Penalties as they may incur, and those securities might perhaps be fixed at a rate which would prevent the business of publishing Newspapers from falling into the hands of persons of no consideration or property.

Reference to legislative council.

You will, however, understand that the whole of this subject is to be referred to the judgment and determination of the Legistive Council; and that the preceding suggestions are intended to assist, and not to control the exercise of your discretion.

I am, &c.,
G. Murray.

* Note 86.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828. 31 July.

(Despatch No. 91, per ship Boddington; acknowledged by Sir George Murray, 12th April, 1829.)

Sir, Government House, 31st July, 1828.

I do myself the honor to transmit for your consideration the Copy of a letter from the Auditor, representing the inadequacy of the Establishment of his Office to the duties it is required to perform. Inadequacy of establishment of audit office.

2d. Mr. Lithgow's Statement is drawn up in so detailed a form that it appears unnecessary for me to trouble you with any observations on the subject. Considering the efficiency of the Audit Office of much importance in every point of view, I have ventured provisionally to Authorise the employment of an additional Clerk at a Salary of £150 a Year, without waiting for Special Authority for this purpose. Employment of extra clerk.

3d. I do myself the honor to enclose for your information and sanction, the Copy of a "Minute" which I issued to the above effect, by which it will also be seen that the Salary of the 2d Clerk has been encreased from £150 to £200, and the Salaries of the two Juniors from £130 to £150 each. Increase in salaries of clerks.

4th. Before closing this communication I beg, Sir, to refer you to my Despatch of the 28th of last Month, No. 88, which I trust will satisfy you that the above Augmentation has not been Authorised without due consideration. From a desire of keeping down the Public Expenditure, I had, in the Year 1826, fixed the Salaries of the Junior Clerks at £100. Experience has since convinced me that neither competent nor trustworthy Persons could be procured for that Sum, and I have been obliged, in order to obtain Clerks of this Character, to encrease the Salaries of the Junior Clerks to £150, and to hold out to them the progressive Augmentation stated in my Despatch of the 27th of October, 1827, No. 110. Reasons for increases.

5th. I have, Sir, already stated my opinion, which gains strength daily, that, in a Convict Colony as this is, Convict Clerks should not be employed. A few only have in consequence been retained, and some very recent occurrences have shewn, that these, though every care was taken in the Selection, are as dishonest as those formerly removed. Objections to convict clerks.

6th. This change of system has necessarily occasioned an encrease of Expense. The Convict Clerk was remunerated by extra Rations and other indulgences. If any importance is to be attached to the character of the Government, no Convict or Person, who has been in that Situation, can be employed in the

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public Offices. And the difference of Expense between these people (who are never at a loss for means to gratify their propensities) and free Clerks must of course be considerable.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir. Audit Office, Sydney, 9th July, 1828.

Request by C. Moore for increase of salary.

1. I have the honor of herewith enclosing a Letter from Mr. Charles Moore who is second Clerk in this Office, representing the inadequacy of his present Salary, and stating that, unless it is raised to £200 per Annum, he will be under the necessity of resigning his present Situation and providing himself with some other employment.

2. Mr. Moore, at the time he entered this Office in September last, was, I had reason to know from several Years' service under my personal direction, an experienced and efficient Clerk, and was induced to accept of the Situation on a Salary of £150, only on my assuring him that, if he exerted himself, there would be every probability of his Salary being advanced to that of a Clerk of the Second Class, which was at that time £200 per Annum.

3. I do not think that I should be able to replace Mr. Moore by any other Individual, whose experience in official Business would qualify him to afford the assistance of which I am so much in need, and I would therefore beg leave to solicit that you would bring his request under the favorable consideration of His Excellency the Governor.

Report on establishment and reforms proposed in audit office.

4. In submitting Mr. Moore's Application, I beg leave to be allowed to avail myself of the opportunity of bringing the present Establishment of this Office generally under the notice of His Excellency, and of pointing out such additional arrangements as experience of the Duties to be performed convinces me to be necessary to give it due efficiency.

5. The Clerks at present employed in this Office consist of the following Individuals:—

1st Clerk	Mr. G. Tomlins	£250
2nd do	Mr. C. Moore	150
Extra do	Mr. T. Lambert	130
do	Mr. R. Chaffey	130

6. Mr. Tomlins has been employed in this Office since the 25th June, 1827, and has given every satisfaction. I consider him fully competent to his Situation and deserving of the full Remuneration of a Clerk of the First Class.

Mr. Moore's Qualifications and Claims have been already adverted to.

Mr. Lambert entered the Office on the 23rd June, 1827, not having previously had experience in any Public Office. He is a young Man, and, though not effecient at first, has greatly improved, and, being at all times very diligent and attentive, will, I have no doubt, ultimately prove an effecient Clerk.

Mr. Chaffey has been employed in the Office from the 9th April, 1827. He is assiduous and anxious to do his best, but his acquirements and capacity do not enable him to perform with a

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due degree of efficiency the Duties required of him; and I very much regret, therefore, that I cannot recommend that he should continue to be employed in this Office. As a Copyist or in the performance of a settled routine of Duty, not difficult of comprehension, he would most probably be found qualified; and I would therefore submit whether he might not, with advantage, be transferred to some other Department, in which Duties could be assigned him more suited to his qualifications.

7. I regret to feel it my duty to state that I have not found the foregoing Establishment adequate to enable me to carry on the Business of this Office in a satisfactory manner, nor with that regularity and despatch, which I consider to be more essential in an office, where the Examination and Settlement of Public Accounts constitute the principal Duties than in almost any other.

8. From the inadequacy of the Establishment in point of number and intelligence, there are various important Duties pointed out in my Instructions which, notwithstanding every exertion, and notwithstanding the Office Hours are from 9 till 4, I have not been able to carry into effect.

Amongst others, the Examination of the Store Accounts of the various executive Departments have only been partially attended to; and the making up and stating the Income and Expenditure of the several Agricultural and other Government Establishments, both of which would require much Labour, I have not been able so much as to enter upon.

9. The circumstances of this Colony render it, I conceive, more peculiarly necessary that this, as well as all other Public Departments, should be rendered fully adequate to the performance of the Current Duties than perhaps in any other British Possession.

10. The rapid developement of the Country renders the formation of New Establishments, and the adaptation of existing Regulations to the changes of circumstances, which are in unceasing operation, to be indispensable. This necessary modification of Regulations and of System occasions such a degree of Extra Labour, and unavoidably occupies in arranging and carrying into effect such a portion of time, as will scarcely appear credible to those conversant only with Public Business, which has long been established in a course of regular and settled routine.

11. Under these circumstances, which are in a great measure peculiar to a new and rising Colony, unless a full degree of efficiency is given to Public Departments, there is not time to keep pace with the constant increase of Business, nor to devise and adopt that course, which might facilitate and abridge the Labour which it's due performance may require. The natural consequences are accumulation and arrears; to overcome which, double the time, exertion, and Expense become necessary, as would in the first instance have been sufficient to prevent them altogether.

12. These remarks I consider so peculiarly applicable to the present state of the Duties of this Office, that, aware as I am of the anxiety of His Excellency the Governor to economise the Public Expenditure and to avoid every unnecessary Expense, and reluctant as I feel to make any proposition which would add unnecessarily to the Expenses of this Establishment, I feel it my Duty to state that the Duties devolved upon it are such, that they cannot be satisfactorily performed, unless its efficiency is encreased by additional assistance and adequate encouragement. The opinion,

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which my experience of those Duties enables me to form of the means necessary for their due execution, I shall now beg leave respectfully to submit.

13. The Examination of the Revenue Accounts would, I consider, require the full and undivided attention of at least one Competent Clerk; that of the Treasurer's Accounts and Correspondence, the Services of another, and indeed two Clerks, even of the most efficient description would be scarcely sufficient for these Duties.

The Examination of the Store Accounts of the various Departments would afford ample employment to another Clerk.

The Duties of examining the Abstracts and Accounts, payable by the Treasurer and the Deputy Commissary General; preparing and registering the Warrants, and examining and entering the Requisitions for Stores made by the several Departments, would require most of the time of two Clerks; and another intélligent Clerk might be fully and usefully employed in keeping Ledgers prepared, so as to facilitate the furnishing of the various Financial and other Statements required for transmission to the authorities at Home; in preparing these Statements when required; and in methodising information for the Blue Book.

The three Clerks last mentioned would properly form a distinct branch of the office.

The Duty of ascertaining and stating the Expense and Income of each Agricultural and Government Establishment would remain still to be provided for; and I am certain that one Clerk would not at first be sufficient for the Duty, in consequence of the preliminary arrangements, which would be requisite, for procuring the necessary "Data" at the outset.

14. The above enumeration will, I trust, satisfy His Excellency that at least from Five to six competent Clerks would be necessary to carry on the Duties of this Office with a due degree of promptitude and regularity, and experience convinces me that any smaller number would prove inadequate. It is also indispensable to the due performance of the Duties that these Clerks should be intelligent and efficient, and, in order to procure and retain their Services, that adequate encouragement should be held out to them.

15. With this view, I would beg leave to recommend that their Classes and Salaries should be regulated on the same scale as those of the Clerks employed in the Office of the Colonial Secretary, and that the Application of this scale to the present Establishment of the Office should be the following:—

1 Clerk of the First Class, Mr. George Tomlins.
1 Clerk of the Second Class, Mr. Charles Moore.
2 Clerks of the third Class, Mr. Thomas Lambert and Mr. John Wesgate.

16. Mr. J. Wesgate, the last of the Clerks above named, arrived in the Colony in the course of the present Year, and was recommended to me as a good Accountant, in proof of which a Book of Decimal Tables, Published by him, and other respectable testimonials, were at the same time communicated; I was in consequence induced to employ him on trial from the 2d June last, and, as he was at the time temporarily employed on a Salary of £3 per Week, I promised, if he gave satisfaction, to recommend him for a Salary of £150 per Annum. I have found him very useful and assidnous, and should therefore propose that this rate of Salary should be allowed him from the date mentioned.

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17. I beg leave at the same time to solicit permission to employ on Trial, as a Probationary Clerk, Mr. J. Macintosh, who has recently arrived in the Colony and has been very strongly recommended to me as well qualified, both in point of character and acquirements, for the situation of a Clerk in this office. He writes a good hand and would, I have reason to believe, be found a competent and efficient Clerk. Should this prove to be the case, I would further submit that, after a Month's probation, he should be appointed a Clerk of the 3rd Class on the same rate of Salary as Mr. Wesgate.

18. I have already stated reasons for not including Mr. Chaffey's Name in the proposed arrangement; and, should His Excellency not be pleased to transfer him to another Duty, I would solicit to be allowed to dispense with his Services, after what may appear a reasonable period to admit of his endeavouring to obtain another Situation.

19. As, by the adoption of the arrangements suggested, the situation and prospects of the Clerks employed in this Office would be materially improved, I should not fail to point out to them that such additional encouragement had been granted solely with a view to encrease their diligence and exertions, and that they must expect that any laxity, neglect or irregularity on their part would, on a Representation of their conduct being laid before His Excellency, infallibly subject them to the deprivation of its being withheld.

This additional encouragement would, at the same time, ensure a better selection of the Persons to be employed; and I should therefore feel it my Duty the more unhesitatingly to propose the discharge of such as should prove themselves to be at all either inattentive or inefficient.

I have, &c.,
Wm. Lithgow, Auditor.

[Sub-enclosure.]

Mr. C. Moore to Mr. W. Lithgow.

Audit Office, Sydney, 20th June, 1828.

Sir,

Inability of C. Moore to retain office on insufficient salary.

Finding the Salary I receive from my Appointment in the Department under your Orders inadequate in this Expensive Colony (which I pointed out to you at the time) to support me either in the comfort or respectability to which I have hitherto been accustomed; and having been induced to fill the Situation of second Clerk to the present date, under the expectation as represented by you of your entertaining no doubt, provided I would exert myself to bring up the arrears of Business, which the want of efficient assistance had unavoidably occasioned, that His Excellency would be pleased to advance my Salary to £200 at the commencement of the present Year, and which I understand is enjoyed by Individuals, similarly situated in other Departments.

I beg leave, therefore, under these circumstances to request you will have the goodness to submit my case to the favorable consideration of His Excellency; and to signify that, in the event His Excellency should not think fit to accede to the advance of Salary in Question, I shall be obligated to resign my Situation at the end of the present Quarter.

I have, &c.,
Charles Moore.

1828.
31 July.

[Enclosure No. 2.]

MINUTE No. 87.

Government House, 16th July, 1828.

Increase in establishment of audit office.

LET it be notified that having had under consideration the Auditor's confidential Letter, dated the 9th instant, I have for the reasons therein stated, authorised an encrease of the Establishment which will be as Follows, Vizt.:—

2nd. Mr. George Tomlins, Chief Clerk, Salary, £250. Mr. Charles Moore, 3rd Class, to be removed to the 2nd Class with a Salary of £200. Messrs. Macintosh, Lambert and Wesgate, to be Clerks of the 3rd Class at a Salary of £150 each. The two latter from the 1st instant, and Mr. Macintosh from the 15th instant.

Dismissal of R. Chaffey.

3rd. Let it be signified that Mr. Chaffey, whose services are no longer necessary under the present arrangement, will be continued until the 15th of the ensuing Month, unless he shall previously obtain other Employment.

Blue book and statistics to be prepared.

4th. It is to be understood that, in consequence of this augmentation, the Auditor will be charged with the preparation of the "Blue Book" and the "Statistical Tables," the Documents necessary to which appear generally (being connected with the Public Accounts) to be collected in the Office of the Auditor.

5th. The Secretary of State having expressed an anxious desire to be furnished with the "Blue Book" and the "Statistical Tables" as soon after the termination of the respective periods for which they are required as may be practicable, the Auditor will consider himself responsible that they are completed from time to time without unnecessary delay.

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Boddington.)

Sir,

Government House, 31st July, 1828.

Applications by W. Walker and J. Hassall for land grants.

I have the honor to acknowledge the receipt of your letter of the 16th of January last, transmitting Copies of two Memorials from Messrs. Walker and Hassall praying for additional Grants of land which had been forwarded to you by Lieut. Stirling, late Aid de Camp to Sir Thomas Brisbane, and desiring I would Act on these Applications as might appear proper with reference to the respective Applicants.

Refusal of claim of W. Walker.

I can have no hesitation in pronouncing Mr. Walker to have forfeited every claim to the indulgence of the Government, if he ever possessed any, from his conduct* to the Archdeacon and the state of the Female Orphan School when under his charge, which was such as to satisfy me from personal inspection that no attention whatever was paid either to the Children or the Establishment, having found both in the most filthy and wretched

* Note 87.

condition. I shall therefore, under the discretion which you have permitted me to exercise, not allow Mr. Walker to receive any land in addition to the 2,000 Acres, which he already enjoys as a Government Grant. 1828. 31 July.

It appears that Mr. James Hassall and his Family have received from Government about 6,500 Acres; but, as I am not sufficiently acquainted with his Situation or circumstances, I shall inform myself on these points and act as soon as I have done so, conformably to the desire expressed in your letter. Consideration of application of J. Hassall.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 19, per ship Royal Sovereign.)

Sir, Downing Street, 1st August, 1828. 1 Aug.

With reference to the despatch (No. 29), which I had the honor of addressing to you on the 17th of May last on the subject of Mr. Deas Thomson's appointment to the Office of Clerk of the Council, I beg to acquaint you that as, since that despatch was written, a communication has been received from you, by which it appears that no double payment would accrue to the Public by Mr. Thomson receiving half the emoluments of that Office from the date of his embarkation, I see no objection to his receiving such indulgence, which indeed is only in conformity with the Regulations which have been promulgated upon this subject. Payment of half salary to E. Deas Thomson.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

Dear Sir, Downing Street, 2d August, 1828. 2 Aug.

The bearer of this letter, Mr. Duncan Mackellar, has been recommended to me by Mr. Potter Macqueen, whose letter I enclose, as a proper person to receive the indulgence of an additional grant of land in New South Wales; and, as you will be the best judge how far Mr. Mackellar may be deserving of this indulgence, Sir George Murray leaves it to you to comply or not with his request as under existing circumstances you may judge most proper. Proposed land grant for D. Mackellar.

I remain, &c.,
HORACE TWISS.

[Enclosure.]

[*A copy of this letter is not available.*]

* Note 3.

1828.
2 Aug.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 93, per ship Boddington.)

Sir, Government House, 2d August, 1828.

Delay in replying to despatch.

A Variety of Matter has prevented me until lately from giving the necessary attention to Earl Bathurst's Despatch of the 2d of April of last Year, No. 29, respecting the Granting and Sale of the Unappropriated Lands. I trust however that the subject has not suffered but has been more perfectly matured, and that you will be satisfied with the view which has been taken of it by Myself and the Executive Council.

Minutes submitted for consideration to council.

Previously to entering on the subject in a detailed Manner, I shall do Myself the honor of communicating to you the several *Minutes*, which I have submitted for the consideration of the Council, as explanatory of the views which I entertained on the various heads referred to in the Despatch; and as the best means of understanding the bearings of the different points, I shall refer to those particular passages in the Minutes which apply to the relative Paragraphs in the Despatch, Vizt.:—

Abolition of regulations *re* choice of lands.

Despatch.—Par. No. 1. Directs that the regulations laid down in Paragraphs 34-35 and 42 of the Instructions* under the Sign Manual, dated 17th July, 1825, respecting the choice of Lands be dispensed with.

Remarks.—1. This Branch of the subject being satisfactorily disposed of, it is considered unnecessary to make any observations upon it.

Suspension of allowance for maintenance of convicts.

Despatch.—No. 2. Approves of the Instruction being suspended, which directs an allowance being made to Settlers for the Maintenance of Convicts.

Remarks.—2. This Branch of the subject being satisfactorily disposed of, it is considered unnecessary to make any observations upon it.

Land to be granted in proportion to capital.

Despatch.—No. 3. Approves of the Amount of Capital fixed with reference to the quantity of land to be granted. Alludes to the difference of the quality of the land, and suggests that the proportions to be granted may be regulated accordingly.

Remarks.—3. See Paragraphs from 1 to 10 inclusive of Minute No. 1, pointing out the expediency of a general Average Value being fixed for the unlocated lands. It will be seen, by the Reports of Mr. Oxley dated the 16th of December, 1827, and of the Land Board of the 18th of September last (see Appendix No. 2 and 5 to Minute No. 1) that they consider the arrangements proposed by Earl Bathurst, Vizt., that the quantity of land, to be granted with reference to the Capital of the Settler, should vary according to the quality of the Soil, to be utterly impracticable, in which opinion both the Council and Myself fully concur.

* Note ss.

1828. 2 Aug.

Despatch.—No. 4. The Reservation in all Grants of right of Roads, etc., is approved. But a claim should also be reserved that the Settler should be concurrent in their improvements, either by Money payments or Work performed on the principle of Statute labour in England. Any Settler, who keeps large tracts of land uncultivated, should be compelled to open Roads, or the lands should be resumed. Right of roads.

Remarks.—No. 4. See Paragraphs from 11 to 14 inclusive, "Minute No. 1," and Appendix thereto No. 5 and 6, being the Reports of the Surveyor General and the Land Board, which recommended that the Main Roads be made and repaired as at present by the Government, and that the system of Tolls be continued to assist in meeting the Expense. With respect to Cross or Parish Roads, it is suggested that it be left to the Counties to regulate these under an act of the Governor and Council.

Despatch.—No. 5. Approves that a period be fixed previous to which Settlers should not be allowed to alienate their Lands. Power to sell lands granted.

Remarks.—No. 5. See Paragraph No. 16, "Minute No. 1," which recommends that Settlers should not be allowed to alienate their Lands in a less period than 7 Years.

Dispatch.—No. 6. Approves of the discontinuance of Tickets of Occupation and of a rent of 20s. per 100 Acres on additional Grants and lands rented with a view to purchase. Abolition of tickets of occupation.

Remarks.—No. 6. Does not appear to call for any further measure.

Despatch.—No. 7. Persons possessing 9,600 Acres not to be permitted to make any further Purchase. Whenever the proprietor shall have brought his 9,600 Acres into due and adequate cultivation, consistently with the rules laid down by the Land Board, it is doubtful if the restriction will be prudent, it being deemed desirable to encourage Settlers to accept grants instead of purchasing; the restriction is sanctioned under various considerations, especially referring to the possibility of compelling a Grantee to improve, whereas, the purchaser having his land in fee simple, the Government have no claim upon him after the purchase Money has been paid, as to the Capital he is to lay out upon it. An Arrangement is then proposed for putting the Grantee and purchaser on a more equal footing, and a regulation is adverted to, as existing, which obliges a purchaser to expend in improvements half the Value of the land at the time of purchase. Restriction on right of purchase beyond certain limit.

Remarks.—No. 7. As to the wish which is expressed in the Despatch that Settlers should be encouraged to accept Grants rather than to purchase land, it is only necessary to remark that no instance has yet occurred of a Settler being desirous to Encouragement of grants *vice* purchase.

1828. 2 Aug.

Non-alienation of land for seven years.

purchase, who could obtain land without purchase. It is proposed in Paragraph 15, "Minute No. 1," that the Grantee, who receives land, shall not be permitted to alienate it in a less period than 7 Years after his commencing to *clear, Stock* and *Improve* it, which will probably be the best means of insuring its improvement. A like period of 7 Years is fixed, by Paragraph 18 of the same "Minute No. 1," with respect to the alienation of lands purchased; and, as it is proposed in "Minute No. 2," Paragraph 3d, that all lands sold should be subject to the payment of an Annual Quit Rent, it is presumed the improvement of the land will be insured by this double measure, that is, its Non-Alienation for 7 Years after the purchase and the payment of Quit Rent during that period.

The following are introduced in the Despatch of the 2d April, 1827, above referred to, as suggestions of the Surveyor General or the Land Board on certain points, but which were not adverted to in my Despatch transmitting their Reports, "Vizt.":—

Special valuations of land.

Despatch.—First. Select portions of land not to be sold until Surveyed and Valued.

Remarks.—First. It will be seen by Paragraph 10 of "Minute No. 1," that the general Measures proposed are not intended to apply to select portions of land, which are to be subject to a special valuation.

Purchases subject to permission of governor.

Despatch.—Second. That no person be allowed to purchase without permission of the Governor.

Remarks.—Second. Will be adopted accordingly.

Limitation of purchases.

Despatch.—Third. Relates to the regulation with respect to Persons not being allowed to purchase more than 9,600 Acres, and points out the course which should be pursued in the event of its being considered advisable to exceed this limit.

Remarks.—Third. I have not thought it necessary to bring this point particularly under the consideration of the Council. It was stated in a general manner, but no specific opinion was offered respecting it. My own opinion is that any extension in this respect should be reserved for the special consideration and decision of the Secretary of State. This will be observed as the rule under the present regulations.

Despatch.—Fourth and Fifth. Points out the course to be pursued when a Parish shall have been Surveyed and Valued.

Remarks.—Fourth and Fifth. Will be adopted accordingly.

Additional grants.

Despatch.—Sixth. The Land Board suggests that additional Grants without Purchase should not be made, which suggestion is not approved by the Secretary of State.

Remarks.—Sixth. These suggestions have consequently not been adverted to in the "Minutes" submitted to the Council.

1828.
2 Aug.

Despatch.—Seventh. The Surveyor General submits whether limited Sales, at the fixed price of 5s. per Acre at 3 Years' credit, would be a departure from the Spirit of the King's Instructions. Lord Bathurst considers this must for the present be refused, but it may be judicious hereafter to alter the instruction, and there is no objection to allow a Settler, who intends ultimately to buy to pay a Rent for the Land in the mean time, if he should prefer it.

Proposed credit on land purchases.

Remarks.—Seventh. This subject has been very maturely considered by the Executive Council, as will be seen by reference to "Minute No. 1," Paragraph 17, 18, and 19, and to Minute No. 2, which relates solely to the sale of land. Having expressed my own sentiments fully in the Minutes above referred to, I am not aware that I can add any thing further which would be useful; But I beg strongly to recommend the adoption of what is suggested in this respect.

Despatch.—Eighth. Approves under certain circumstances of Surveyor General's suggestion that 1/7 of each Parish be retained for the Church.

Land reserved for church.

Remarks.—Eighth. Will be acted on as directed.

Despatch.—Ninth. Approves of two or more Average Valuations being fixed for the Lands in each Parish.

Valuations of land in parishes.

Remarks.—Ninth. It is quite clear that, in the present state of the Survey, no advantage would result from the adoption of this suggestion of the Land Board. It will be seen, from the Representations I have made, that the prospect of bringing up the Survey is so extremely remote, that it would be futile to place any dependence on the land being Valued by the Commissioners; a general average valuation therefore as recommended by the Council, and explained more fully in Minute No. 1, Paragraphs from 1 to 10 inclusive, appears the only practicable expedient for overcoming the existing difficulty.

Despatch.—Tenth. That Grants shall not be made to Persons under 21 Years of age.

Age limit for grantees.

Remarks.—Tenth. It is submitted that the age of 19 be adopted instead of 21, for the reasons stated in Paragraph 16, "Minute No. 1."

Despatch.—Eleventh. Approves of the suggestion of the Land Board, that the Reserves at Bathurst be thrown open.

Opening of reserves at Bathurst.

Remarks.—Eleventh. The Reserves alluded to had been already thrown open, and the Lands granted to a considerable extent. But I beg to observe that the reservation of these lands was not attended with any Expense to the Government, as the Earl Bathurst appears to have supposed.

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Title deeds to be granted in twelve months.

Despatch.—Twelfth. Approves of the suggestion of the Land Board, that Grantees should receive their Title Deeds at the expiration of 12 Months, if the land has been improved according to regulations.

Remarks.—Twelfth. The Council have unanimously concurred in opinion, that no lands, whether obtained by Grant or purchase, should be alienated in a less period than 7 Years, and I am myself satisfied that a regulation to this effect will more certainly insure the object which His Majesty's Government has in view, the improvement of the Country, and which is of the very first importance to the Colony, than any other measure that can be adopted. I beg to refer to "Minute No. 1," Paragraphs 15 and 18, which relate immediately to this point.

Method of payment for purchases.

Despatch.—Thirteenth. Approves of the suggestion of the Land Board, that Half the Purchase Money be paid down, and the other half left in Mortgage.

Remarks.—Thirteenth. Should the suggestions, which I have now had the honor to submit as the result of the deliberations of the Executive Council, be adopted (See Minute No. 1, Paragraph 17, 18, and 19), the Arrangement recommended by the Land Board would consequently fall to the ground.

General average valuation of lands.

Having stated the opinion of the Council, with respect to fixing a general average Value at which the Unlocated Lands should be rated, I now do myself the honor to enclose an Extract from the Minute of the Proceedings of the Council, shewing the steps which were taken to ascertain the Value, and the result, *three shillings and four pence* per Acre being deemed on the fullest consideration a fair and reasonable sum to be paid, the Individuals having the power of Selection.

Settlers with families to be allowed additional lands.

I have only further, Sir, to submit to you the accompanying Copy of a Minute (No. 3), which I was induced to lay before the Council, in consequence of the suggestions contained in the Reports of the Surveyor General and the Land Board (see Appendix Nos. 2 and 5 to "Minute No. 1") that bona fide Settlers, by which I mean persons intending to reside on their land, of respectable condition in Life, bringing out their Families, should receive more than the ordinary portion of Land; and I beg to inform you that the Council, having maturely weighed the suggestions alluded to, and attaching much importance, as every one must who is acquainted with this Colony, to the advantage which would result from the introduction of Settlers from the more respectable classes at Home, have recommended that Persons of this description should be allowed half a square Mile or 320 Acres in addition for every child they bring out with them under the Age of 19.

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It will be observed that the Surveyor General also recommends that Unmarried Men should receive additional land, in the event of their residing on their Farms. But the Council expressed an opinion that it might not be for the interest of either the Individual or the Colony to induce a Measure of this nature, contrary to the inclination of the Individual.

Land for unmarried men.

Having now, Sir, had the honor of submitting to you a detailed statement of the measures proposed, with reference to the several points adverted to in Earl Bathurst's Despatch of the 2d of April, 1827; I beg leave in conclusion to enumerate those Measures, in order that you may be enabled to see at one view the nature and extent of what is suggested, "Vizt.":—

Summary of measures proposed.

1st. It is submitted that, in order to avoid the embarrassment occasioned by waiting the Valuing of the lands by the Commissioners as directed by the present Instructions, a general average Value of the Lands, granted since the 1st day of January, 1826, (the time of my assuming the Administration of the Government) be fixed according to which the Quit Rent shall be rated.

General average valuation of land.

That this average Value be fixed at 3s. 4d. an Acre, which at 5 per cent. per Annum, will produce a Quit Rent of 2d. per Acre or 16s. 8d. for every 100 Acres Yearly.

It is further proposed that all lands *sold* be subject to this Quit Rent. A convenient means will be thus furnished of raising a Revenue and in a manner the least burthensome to the people. It may be observed here that this proposition accords in principle with the present regulations, which direct that land put up for sale shall not be sold below the sum at which such land has been Valued by the Commissioners. In the present case, the Quit Rent of 2d. An Acre is the estimated Value, which corresponds in principle with the existing regulations. And in both the Purchaser must have bid above that Valuation, the Mode of payment only being different. Under the present system, the purchaser is required to pay down a deposit of 10 per Cent. on the Amount of the Purchase Money, and the remainder by Instalments in the course of two Years.

Lands purchased to be subject to quit rent.

According to the Measure now suggested, the Purchaser would be required to pay within *two Months* (see the reasons assigned in "Minute No. 2") the sum bid above 3s. 4d. an Acre, and 5 per Cent. per Annum on the estimated Value of 3s. 4d., that is, 2d. an Acre as a Quit Rent.

Method of payments on lands purchased.

It may be satisfactory to know that the latter measure is preferred by the Settlers, those who made purchases during Sir Thomas Brisbane's Administration, and the land sold at that time was to a considerable extent, having recently applied (not

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being enabled as they state to pay up their instalments) to be permitted to commute the original conditions by paying Interest in the shape of Quit Rent on the sums remaining due.

Redemption of quit rent.

The Quit Rent in both cases, that is of land received by Grant or Purchase, to be redeemable within 20 Years.

Construction and maintenance of main roads;

2d. It is submitted that the *Great* or *Main Roads* be made and repaired as at present by the means at the disposal of Government, the Men under sentence, who cannot be more advantageously employed, being always numerous. And that Tolls be more generally established in order to meet the Expense as far as may be practicable.

and of parish roads.

It is proposed, with respect to *Cross* or *Parish* Roads, that those be regulated and the Expense provided for by the respective Counties, under an Act of the Colonial Legislature.

Prohibition against alienation for seven years.

3d. It is submitted that neither Grantees nor Purchasers be permitted to alienate their lands in a shorter period than 7 Years. It is considered that this will insure, more effectually than any other measure, the improvement of the land. Persons, who have obtained Grants with a view to disposing of them, have found no difficulty in immediately expending the small sum required by the present regulations, that is, *one fourth* of the estimated Value of the land; Whereas the obligation not to sell until 7 Years, after they have commenced clearing and Stocking their land, will insure its substantial improvement. Besides, no Person could calculate on advantages which would not be available until the expiration of 7 Years. While, on the other hand, Individuals would not be willing to purchase previously, as a good Title could not be given, and the Heirs of a person, having sold land under such circumstances, would be very likely to dispute the purchasers' claim.

Age limit for grantees.

4th. It is submitted that, from local considerations, it appears desirable Persons of *19* Years of Age should be permitted to receive Grants, and that the regulation, which proscribes Individuals under 21 from the enjoyment of that indulgence, be annulled.

Date for commencement of quit rent.

5th. It is submitted, in the case of Original Grantees, that the period of commencing to pay Quit Rent should be reckoned from the date of the order to take possession of the land, and not from the time of receiving the Deed of Grant, as is supposed by some persons to be the proper period.

Additional land for settlers with families.

6th. It is further submitted that Persons of respectable condition in Life, coming out as *bona fide* Settlers and bringing their Families, be allowed additional land in the proportion of half a Square Mile or 320 Acres for each Child.

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I believe I have now, Sir, put you fully in possession of the Measures which, on the most attentive consideration of Earl Bathurst's Despatch above referred to, the Executive Council has concurred with me as the most expedient to be adopted under existing circumstances; I shall therefore not trespass further on your time than to observe that a Minute* of the Proceedings of the Executive Council on this subject accompanies my Despatch No. 92, which is forwarded by the present opportunity and will point out more particularly the view taken of the several questions should the communication I have made appear defective or not be found sufficiently explanatory.

Transmission of minute of executive council.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MINUTE FOR THE CONSIDERATION OF THE EXECUTIVE COUNCIL.

Government House, 12th June, 1828.

THE following Propositions are submitted for the consideration of the Executive Council, being consequent on the Instructions contained in the Despatch, addressed by the Right Honble. The Secretary of State, under date of the 2d April, 1827, No. 29, to Lieut. General Darling:—

Submission of problems *re* land grants.

1st. It will be perceived, by Paragraph No. 3, Page 17, that the Secretary of State considers that the quantity of land granted with reference to Capital should be regulated by the Quality of the Soil, that is, where the Land is worth only half a crown an Acre, the Settler should receive double the quantity which would be allowed if it were worth 5s. per Acre. It appears the diversity of the Soil throughout the Colony is such that even the smallest Tracts contain land of every quality, good, bad and indifferent. (See the Report of the late Mr. Oxley on this and other important points.) The best mode therefore of meeting the views of His Majesty's Government, until the Lands have been Surveyed and Valued by the, Appears to be the establishing a general average Value, according to which all Lands granted in the Unsurveyed Districts should be rated the same as if they had been actually Valued.

Proposal for area of grant in relation to quality of land.

Proposed general average valuation of land.

2d. This cannot, that I am aware of, be liable to any objection on the part of the Settlers, so long as they are allowed to select their land. But on the contrary is likely to prove as satisfactory to them, as it will be convenient to the Government. Many Individuals are ignorant of the Terms on which they held their land, or the Value at which it will be rated, though in possession of it for Years. Government is also exposed to very serious inconvenience and embarrassment from the circumstance of not being able to ascertain the Amount of the Quit Rents.

3d. The adoption of what is now proposed would in a great measure prevent any Embarrassment being experienced in future, and would obviate it in the case of Grants made since the commencement of the Year 1826, by giving the measure a retrospective effect, as I propose to that date.

4th. In order to obtain the best Information as to the sum, which might be considered a fair average Value of the lands usually granted to Settlers, I called on the Commissioners, whose duty it

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is to Value the Crown Lands, to state their opinion, and I submit Copies of my letter and of their Report.

Proposed general average valuation of land.

5th. The Council will perceive by my Letter the view I have taken of the matter. It appeared to me that a fair Average would be better obtained by making the calculation on a Medium Grant of 3 Square Miles, that is 1,920 Acres, than on one of larger or smaller dimension.

6th. I have now to request that the Council will consider, should the above suggestion be adopted, what would be a fair Average Value to be paid for the lands in the Unsurveyed Districts; and I would submit that, in order to render the arrangement the more simple, the land be rated at a certain sum per Acre, in proportion to such Average Valuation as may be fixed, or as near as may be, it appearing, in the event of Grants being subsequently broken up and sold by the Grantees in small portions, that an arrangement to this effect would be extremely advantageously.

Proposal to be submitted to secretary of state.

7th. In suggesting the above Arrangement, it is not with an intention of its being acted on immediately, as, His Majesty's Government appearing to have taken a different view of the subject, it may not be approved, but to point out to the Secretary of State, who may not have adverted to the advantages of the Measure now proposed, the convenience which would attend its adoption.

Rental value of lands.

8th. The existing practice of charging a Rent of 20s. per Annum for every 100 Acres, which has been approved by the Secretary of State, as will be seen by the Despatch now under consideration, will therefore be continued in the Cases of "additional Grants" and of "lands rented with a view to purchase," until the pleasure of His Majesty's Government shall be known, should the Council concur in the expediency of the Measure I have now suggested.

Effective date of new regulation.

9th. The Regulation, now proposed of rating Unsurveyed lands at a certain Sum per Acre, should, I submit, take effect from the 1st day of January, 1826, when I assumed the Administration of the Government, so as to prevent as much as possible the difficulties which unavoidably attend a Variety of Rates.

Special valuations.

10th. In cases however in which lands from local situation, or other circumstances, are more than Ordinarily Valuable, it is not intended that they should be granted at the general average Value, but be reserved until they can be alienated in the manner enjoined by the King's Instructions, dated 17th July, 1825.

Reservation for roads and bridges.

11th. The point, next adverted to in the Secretary of State's Despatch, relates to the "Reservation for Roads and Bridges." In consequence of the observations on this subject, I felt it desirable to refer to the late Mr. Oxley, Surveyor General, and the Land Board, that the Council might have the benefit of their Opinions.

12th. As I have now the honor to lay their Reports before the Council, it is unnecessary for me to enter into any explanation of their views, nor am I aware that any Measure more convenient than that which is recommended can be adopted. I accordingly

Main roads.

beg to submit to the Council that the *Main Roads*, conformably to the existing arrangements, be made and repaired by the means at the disposal of the Government, and that Tolls be established for defraying the Expenses.

Cross roads.

13th. In the case of *By* or *Cross* Roads, it appears to me that the arrangement generally should be left to the Counties and Parishes, as suggested by Mr. Oxley; and that the necessary Authority should be given by an Act of the Colonial Legislature.

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14th. It is presumed that an arrangement to this effect would supercede the necessity of making the Proprietors responsible for keeping Roads through their own immediate lands, while they would more effectually contribute, in common with the Proprietors of the Neighbourhood in which they reside, to the general accommodation of the Public.

Restrictions on alienation of land.

15th. The point next adverted to by the Secretary of State, Paragraph No. 5, is the period "previous to the expiration of which, Settlers should not be permitted to dispose of or alienate their Lands." I submit that the Sum, which Settlers are required by the existing Regulations to expend on their Grants, is so very trifling that it cannot act as a Check to prevent the Sale of their Lands. The proportion is ¼ of the estimated Value of the Land. Supposing an Individual to receive a Grant of *2,560* Acres, Valued at 3s. per Acre, the Sum required to be expended by him in its improvement, in the course of 7 Years, would amount to only *£96*. A Person, obtaining land for the purpose of disposing of it by Sale, might immediately expend this Sum without benefitting the land, and thus establish a claim to sell it. For example, an Individual, receiving 4 Square Miles (2,560 Acres) who was in want of Money, would immediately expend £96 in order to enable him to dispose of the land; supposing the land to be worth more than the average Value, say 4s. an Acre, he might obtain *£512*, in addition to the Money expended in Improvements which Sum (£512) would be clear gain to him. It must be recollected in this case that the Person, purchasing from an original Grantee, would not be required to pay Quit Rent for the land, until the expiration of 7 Years from the time of its being granted, which would be of great importance to a person who had already obtained land from the Government, as, should he receive an *Additional Grant*, he would be subjected to the immediate payment of Quit Rent, as he would in the case of his being permitted to purchase under the regulations now proposed.

I should therefore propose, as a more certain means of insuring the Improvement of the land, that the Grantee be not permitted to dispose of it, until it shall have been actually settled for a period of Seven Years at least, to be dated from the time of his commencing to *clear*, *Stock* and *improve* it. A Regulation to this effect appears the more necessary, as, from the circumstance of An Original Grantee paying no Quit Rent until the expiration of Seven Years, he does not, as in the case of an Individual receiving an Additional Grant who commences paying Quit Rent immediately, require any return from the land to meet or cover this portion of his Expenditure. A Settler, occupying land for a period of 7 Years, must necessarily expend a much larger Sum than that required by the present Regulations, if only in erecting Stock Yards and fencing a proportion of the land, independent of clearing and other Improvements. At any rate, if Money Expenditure is to be the Criterion, it should be to the extent of the full Value of the land, instead of One fourth as at present.

Age limit for grantees.

16th. The Secretary of State having directed that a Grant of Land shall not in future be made to any person under the Age of 21, it is submitted that it might be beneficial to the Colony if the restriction did not extend beyond 19. Most of the young Men are qualified to take charge of a Farm at that Age, and it is certainly better they should be so employed than live at Home, in comparative Idleness with their Parents, which may induce habits they can

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never afterwards get rid of. Besides, the fact may not be undeserving consideration in determining this point that, from the Nature of the Climate, the Youths of this Colony attain maturity at a much earlier period of life than in Colder Countries.

Method of payment and quit rent for lands purchased.

17th. With respect to the *Purchase of Land*, and the mode of payment suggested by the Land Board, as adverted to in Paragraph 13 of the Secretary of State's Despatch, I should be disposed rather to recommend Mr. Oxley's suggestion, as adverted to by Earl Bathurst in the Paragraph now alluded to, and again introduced by Mr. Oxley at the conclusion of his Report (See Appendix No. 2), that Purchasers, under the Regulations directed by the Secretary of State, be required to pay a deposit, say of 10 or 15 per Cent. on the Amount of the Purchase Money, with an Interest of 5 per Cent. Annually on the remaining Sum. But I am quite satisfied it would be a preferable Mode to subject all lands sold by the Government to the payment of a certain Quit Rent, say *One half* the Amount of the Quit Rent payable on Lands granted (that is not Sold), the Purchase Money, which consequently would be comparatively small, being paid in two equal Instalments, One Half down and the other at the expiration of 12 Months from the date of the Sale. This would in some degree insure what His Majesty's Government has expressed so much desire to accomplish, the improvement of the land, as Individuals, paying an Annual Quit Rent, would not allow their lands to remain neglected.

Method for control of jobbing in land.

18th. Further, in order to prevent Jobbing and to check the Sale of Lands to objectionable Individuals, I would suggest that the Original Purchasers of Crown Lands should not be permitted to dispose of such lands until the expiration of 7 Years from the date of their Purchase, and that any Sale previously effected should be deemed illegal.

Revenue from land.

19th. It is evident that by Adopting what is now proposed (that in the case of Lands Sold, as well as of those granted without purchase, they should be subject to the payment of a Quit Rent to the Government), a permanent and effectual source of Revenue from the Land, without distressing the Landholders, would be established, which would prevent the necessity of imposing Taxes for the ordinary purposes at least of the Government, and prove advantageous to the Inhabitants generally.

Specified time for payment of quit rent.

20th. Doubts appearing to be entertained as to the time at which the Payment of Quit Rent should commence in the case of Original Grants, it is submitted that, at the expiration of the Seven Years, the period specified in the King's Instructions should be calculated from the date of the Grantee receiving authority to take possession of the land, and not from the time of his receiving the Deed of Grant, as it may not be possible from the state of the Survey to prepare the Deeds for a considerable period, and, the Grantees being in possession of their land and deriving the same benefit from it, as if they had received their Deeds, there can be no reason why they should not pay the Quit Rent at the expiration of 7 Years after receiving authority to take possession.

Ra. Darling.

[Appendix No. 1.]

[*This was a copy of earl Bathurst's dispatch, dated 2nd April, 1827; see page 219 et seq., volume XIII.*]

[Appendix No. 2.]

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SURVEYOR-GENERAL OXLEY TO GOVERNOR DARLING.

Sir, Surveyor General's Office, 16th December, 1827.

I have the honor to acknowledge the receipt of Your Excellency's Minute of the 8th of September last, accompanied by an Extract from Earl Bathurst's Despatch, dated the 2nd April, 1827, Your Excellency being pleased to direct that I should transmit for your consideration my sentiments and opinions on the several points more particularly stated in the Minute. Opinion given by J. Oxley.

Your Excellency desires me to say whether any difference should be made in the Quantity of Land to be granted to Settlers with reference to their available Capital, in consequence of the difference in the Quality of the Land which they may select. In my humble opinion such an arrangement is utterly impracticable. The Commissioners and Settlers would never agree as to the various Descriptions of Land which may be termed good and bad in this Colony, and after all the Settler would be dissatisfied if he failed in being successful. Perhaps Your Excellency will be of opinion that any arrangement, having in view the object stated in the Query, will be the less necessary, as Your Excellency has indulged every New Settler in the selection of his Land. A Man that chooses his own Land is almost always contented with the choice he makes, and there are only six instances within my knowledge where permission to change has been requested of Your Excellency, and four of these Individuals never saw the Lands they desired to be selected for them. Impracticability of granting land according to quality.

In carefully considering Earl Bathurst's Despatch of which the first Query forms a part, it would appear that His Lordship is exceedingly desirous that some Regulation should be adopted, which would have in view the encouragement of Settlers by Grants, rather than hold out further Inducements to purchase Lands under the Regulations. Encouragement of settlers by grants.

I would humbly suggest (as a most important benefit conferred on the New Settler by Your Excellency), if the Quit Rent on his Land, which he will have to pay at the expiration of Seven Years, be charged at the Cash Valuation of the Commissioners, and not wait until the real credit price can be ascertained by certain of the Lands within the Parish being sold. This Indulgence might only be conceded in the first instance to Free Settlers from England, who may receive a Primary Grant; and it would not at all affect Retired Officers receiving Land under His Majesty's Regulations. Quit rent to be charged on cash valuation.

I respectfully submit that the present extent, Vizt., 2,560 Acres, does not hold out sufficient inducement to Married Settlers with Families, whose Capitals exceed £2,000 to come to this Colony, as they can only receive the same Quantity of Land as the single Man with a far inferior Capital. Proposed enlargement of grants.

I conceive, from the tenor of Earl Bathurst's Despatch, that it would be acting up to the spirit of the sentiments therein contained, if Your Excellency were to make such an enlargement to Settlers of the first description as may appear from circumstances of their actual residence on the Land, Expenditure of Capital thereon, joined to their general character, as might to Your Excellency seem proper. The same considerations might also be made to Unmarried Settlers of proportionate Capital, who reside on their

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Lands. It would be impossible to state in all cases what extension of Grant Persons with such encreased Capital should receive. It would depend on a variety of circumstances which could be best known to Your Excellency only; and whether such extension should be in the nature of a Reserve or an immediate enlarged Grant must remain for Your Excellency's decision likewise.

After the most attentive consideration, I cannot point out any other measures that could be adopted, which would afford greater encouragement to Settlers, than such as I have suggested, and Perhaps Your Excellency may be of opinion that the present Regulations may be so altered as in a great measure to embrace the principles, which Earl Bathurst seems to conceive may promote and encourage Free Settlers of Character and Property to emigrate to this Colony.

Alteration in regulations to encourage settlers.

As I have already reported to Your Excellency my opinion as to the best manner of compelling Grantees and Purchasers of Lands to contribute to the construction of Roads and Bridges, I will not recapitulate them, but respectfully refer to my Report* thereon.

Former report *re* roads and bridges.

It only remains for me to submit to Your Excellency my opinion on the expediency of allowing Individuals to Purchase larger Quantities of Land than is permitted by the existing Regulations, and to state my construction of that part of the Despatch.

Objections to limitation of areas by purchase.

I cannot discover that it is His Lordship's intention or wish to prevent or even discourage the Sale of Crown Lands to Settlers of Capital, who may wish to encrease by Purchase the Grants they have received, except so far as to withdraw from such Purchasers the advantage of first selection which undoubtedly operated to the prejudice of the Free Settler. I am not aware that Purchasers of Land possess any privileges or exemptions from Public Burdens, which by the conditions of their Grants may seem to bind the Emigrant Settlers. The Purchaser, it is true, is not compelled to lay out in Improvements a further Sum of One Quarter of its Value, but this Sum is more than Expended in the encreased price which he must give beyond the affixed cash Value.

I am entirely ignorant of any Person in this Colony, who possesses Funds to Purchase Lands for the mere purpose of Speculation and not for actual use, and such useful occupation will more than embrace the Sum required to be expended on granted Lands.

I think it impossible to prevent an Individual from purchasing to an extent far beyond the Quantity permitted by the Regulations. If the Government did not sell to him directly, it would be purchased indirectly in some other unexceptionable Name, and, even if the Individual declined making use of such an alternative, the large Quantities of Church Lands, which must ultimately be in the Market, would enable him to obtain his wishes.

I am of opinion that, if any material difficulties be made to the discouragement of Persons intending to Purchase Crown Lands, it will operate as an inducement to many of the Settlers, who have received Grants, to dispose of their Lands at an enhanced Price to those Individuals who may require them; and I cannot but think that such discouragement would also prove an additional inducement to the unauthorised occupation of Crown Lands, which Your Excellency is aware exists at present to a very great extent to the serious Injury of the respectable Settlers of Capital, who are at all times more desirous to secure a legal Title to the Lands than to

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risk the displeasure of Government by the adoption of such a practice. The present Regulations direct that all Purchasers of Crown Lands should pay a Deposit of 10 per cent., and the residue in two Years by four equal Instalments. Under these Regulations, a great number of Applications may be made to Purchase Lands, and the Deposit will of course be paid; but I feel assured that by far the largest proportion of the Purchase Money will never be forthcoming; the object of obtaining possession being compassed, the Government would necessarily be engaged in a continued succession of Law Suits, either for the recovery of the Land or the payment of the obligations. And I further submit it, as a well known fact, that there is not that Amount of Surplus Capital in the Country available for the payment of One half the Value of the Lands for which permission to purchase has been requested. I trust that Your Excellency will believe that I am diffident in suggesting any considerable deviation from the Regulations by which the Lands are disposed of at present; but I certainly conceive that a respectable and responsible class of Persons may at all times be found willing to Purchase any Crown Lands Your Excellency may think proper to dispose of, upon terms which, although differing from the Regulations, will assimulate in spirit with the sentiments conveyed in Earl Bathurst's Despatch. His Lordship appearing desirous that Purchasers and Grantees should be as little different in respect of their holdings as possible. I would therefore submit that a considerable encrease in the Amount of the Sum payable in the first instance out of the Price of the Land would be most advisable (the Amount so required being left of course for Your Excellency's decision) and Interest to be paid to the Government at the rate of 5 per cent. per Annum upon the residue, with the privilege of redemption, but subject to the same limitation as is contained in the Grants to Free Settlers. Thus the mode of Purchase, and the Gift of Land by grant to Free Settlers, would be nearly assimalated. A large Sum would be obtained in the first instance and a permanent Revenue secured to Government by Persons whose stability and Property had been sufficiently proved by the first payment.

Objections to system of payment for lands purchased.

Proposed new method for payment.

I have, &c.,
J. Oxley.

[Appendix No. 3.]

Governor Darling to Commissioners of Survey.

Gentlemen, Government House, 24th April, 1828.

Having had under consideration The Instructions, which I received some time since from The Secretary of State, respecting the Granting and Disposing of the Crown Lands, I am desirous of suggesting some means which may assist in lessoning the Embarrassment which is experienced from the present state of the Survey of the Colony, and being induced to think that this object may be obtained by fixing an Average Value upon the Lands to be granted under present circumstances; I request you will favor me with your opinion as to the Sum which it appears to you would be a fair average of the Lands generally granted to Settlers.

Request for opinion *re* proposed average valuation of land.

I have stated the Question in this form, as it is evident Settlers being allowed to select will not choose Lands generally of an inferior Description, which it must be admitted, from the Character

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of the Country, that in all Grants there will be a portion of inferior and, in many cases, some Land totally unavailable. As Grants are made from the extent of Half a Square Mile to four Square Miles, it would perhaps be fair to make the calculation with reference to a Grant of three Square Miles.

I have, &c.,
Ra. Darling.

[Appendix No. 4.]

Commissioners of Survey to Governor Darling.

Opinion by land board *re* average valuation of lands.

Sir, Surveyor General's Office, Sydney, 26th April, 1828.

We have the honor to acknowledge the receipt of Your Excellency's Letter of the 24th instant, acquainting us of Your Excellency having had under consideration the Instructions from The Secretary of State respecting the Granting and disposing of Crown Lands, and requesting our opinion as to the Sum which would be a fair Average Value of the Lands generally granted to Settlers, Your Excellency being induced to think from particular circumstances the attainment of this object desirable.

Having given Your Excellency's communication every consideration which so important a measure requires, we respectfully beg to state that we are of opinion the Sum of Three Shillings per Acre (with the Right of Selection) would be a fair Average Value, both for the Government and the Settler. The Quit Rent on this Sum would be Fifteen Shillings per Hundred Acres.

Should the Sum we have mentioned be thought low, we beg to point out that our Instructions for the Valuation of Crown Lands direct us to fix an Average Value on the Lands in each Parish, by which Valuation it is understood the Quit Rent imposed on the respective Grants in the Parish is to be governed, from the singular Nature and general Character of the Country; we feel confident that, for every Parish which may be Valued at a greater Sum than three Shillings per Acre, there will be another much below it. That the Government will not lose by this Valuation nor the Individual suffer, it may be proper to state that, in the political Divisions already made, there are Parishes which only contain one or two Grants, the Lands of which, from their absolute Barrenness, we could not pretend to fix a Value on, and the Number of this description of Parishes will encrease as the Division of the Territory extends.

The Grantees in such cases choose their Lands from circumstances that have no reference whatever to the Quality of them, but sufficiently strong to overcome the objection of Barrenness, and to induce them to pay any reasonable Nominal Value that might be fixed on the Land. By establishing therefore a Fixed Value, the Crown could in no case lose, and the Individual would still be contented.

In the face of the Sum we have stated to be a fair average Value of the Lands generally granted to Settlers, and we state it in consequence with the greatest deference, it is true that considerable portions of Land were sold by Your Excellency's Predecessor at a much higher Price, and Bought at the time with avidity, but how far the expectations of Government will be eventually realised by these Sales, it might be considered impertinent in us to say.

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In the ultimate determination on the Sum to be fixed as the Value of the Lands, it may be observed that the Person, who has to select the smallest portion, has the greater chance of getting it all of a good Quality.

We have, &c.,
T. L. MITCHELL.
WILLIAM CORDEAUX.

[Appendix No. 5.]

Opinion by land board *re* limitation of area of land according to quality.

THE Land Board's Opinion respectfully submitted for the consideration of His Excellency the Governor, in obedience to the Instructions contained in his Confidential Minute, bearing date the 8th September, 1827.

WITH respect to the first point on which the opinion of the Board is required by His Excellency's Minute, Vizt., "whether any difference should be made in the quantity of Land, to Settlers, with reference to their available Capital, in consequence of any difference in the quality of the Land which they may Select," it does not appear to them that any material alteration in the mode now practised could be easily introduced under existing circumstances.

The Board respectfully beg leave to submit for consideration that, altho' the plan proposed in the third paragraph of Lord Bathurst's Despatch of the 2nd April last No. 29, is undoubtedly grounded on the principles of equity, still they are very apprehensive, in the present state of the Colony, it would be found extremely difficult if not impracticable in the execution. The great variety and different qualities of the soil, which is observable in every District and almost in every Parish, would render it so difficult a task, in the present unsurveyed state of the Crown Lands, to make such nice distinctions in the number of Acres to be granted to Applicants of equal Capital, that there would be scarcely a chance of satisfying the parties concerned that equal justice was done them; and the existing difficulties in granting Land would consequently be encreased, as it is feared the Local Government would be embarrassed with complaints on the subject, and with numerous applications founded on those complaints, for additions to their respective Grants, under the constant plea, that the Soil was of inferior quality.

By the practice hitherto pursued (which has been to permit all Settlers to make their own Selections of Land within certain limits prescribed by the Governor in Council), they have had every opportunity afforded them of Selecting such land as they may consider best suited to their own views and purposes; and, in the early settlement of a Colony of such vast extent, the Board are of Opinion that the continuance of this mode of allowing Settlers to make selections of such Land, as they themselves prefer, will undoubtedly give more general satisfaction and will be more attractive to new Settlers than any compulsory system, which would confine their Selections of Land to that of inferior quality, altho' the extent of Grants should even be doubled.

At a future period however, when the settlement of the Colony is more advanced and the population becomes more dense, the plan proposed may certainly be carried into execution with advantage; but, even then, it will become an indispensable preliminary that the survey and valuation of the whole of the Crown Lands should be completed in those Districts, where the plan is to be acted upon, before any distribution of Grants should commence, for it is obvious that, in situations where the quality of the soil is indifferent

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Opinion by land board *re* limitation of area of land according to quality.

or varies much, and also in those situations where water is scarce or difficult of access, no distribution can be made with any thing like satisfaction to the Grantees, until the Land be previously surveyed and valued and subdivided into sections of square miles, so as to give free access to water, and as equal a share of the other natural advantages as practicable, to the various Grants into which it is divided; and, without a previous valuation, no satisfactory principle could be laid down, on which a correct calculation could be founded, of the number of Acres which each Grantee would be fairly entitled to in proportion to the quality of the soil.

It would appear from the reasoning adopted in the Right Honble. the Secretary of State's Despatch, now under consideration, that the cultivation of the Soil is the principal and primary condition, which the Government have in view in granting the unlocated Lands of the Crown. It is well known however to the Local Government and to all the Settlers, who have acquired a thorough knowledge of this Country, and of its Climate and productions, that any like extensive cultivation is altogether a secondary object, unless in the immediate vicinity of the Towns and Markets for Corn. In the parts of the Colony hitherto Settled, and throughout a still greater extent as yet unlocated, the rearing of fine wooled Sheep and of Horses and of Cattle, has hitherto been and will evidently continue to be the great object of the Land holders, at same time, from the variety of Climate and Soil, no doubt can exist that, when settlements can be formed on the rich and extensive Sea Coast, lying between Cape Hawke and Port Macquarie, and from thence to Moreton Bay, and still further North, the Cultivation of Coffee, Cotton and Sugar, as well as of Indigo, Olives and all the variety of tropical productions, may be successfully undertaken.

Preference of settlers for grazing.

Probable cultivation of tropical products.

The Board however respectfully beg leave to offer it as their humble opinion that, until the settlement of the Colony is further advanced and the Crown Lands have been extensively surveyed and valued, so as to have a just criterion established, by which the number of Acres given to each Grantee may be fairly and easily ascertained according to the various qualities of the Soil, the present System of permitting Applicants to make a personal selection of their lands, within prescribed limits, is by far the simplest and the most practicable mode that can be adopted; and, as it has been hitherto uniformly acted upon, ever since the formation of the Colony, it is not only better understood, but it will also give more general satisfaction to Grantees than any other plan the Board can suggest for the present.

Preference for system of personal selection.

Necessity for provision *re* road and bridges.

2nd. The specific reservation in all Grants of Land (whether by scale or otherwise) of such portions, as may hereafter be found necessary, for the formation of Roads and Bridges, and of such indigenous timber, Stone or other Materials, as may be necessary for constructing them, has been already found by experience to be indispensable. In several instances where this reservation was not made in the original Grants, some of the Proprietors of Land have of late refused to allow those materials to be removed from their grounds.

In a young Colony like this, however, where the population are so strongly prejudiced in favor of English Laws and Customs, where labor and Capital is scarce and much in Demand, and where the great body of the Settlers will for some time to come have too

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many difficultles to encounter to be able to afford any thing like *dircct* contribution for the formations of roads or other public purposes, any deviation in this respect from the well known and established customs of the Mother Country would in all probability not only fail of success in the attompt, but excite general discontent and opposition. The Board are satisfied therefore that any measure, which would have for its object a direct assessment upon Land for the formation of Public Roads and Bridges, would be found highly injudicious if not impracticable in the execution.

Objections to assessments for roads and bridges.

The people of the Colony are already accustomed to the payment of Tolls in aid of the expense incurred by Government in the formation and repair of Roads and Bridges; and, as this is the practice followed in the Mother Country, we humbly presume it is the most popular plan that can be resorted to in raising funds for the formation and repair of the Public or great lines of Road.

Preference for system of tolls for main roads.

In all situations, however, where Parish or private roads are required to open communications with the Public lines of road, we are of opinion it ought in every instance to be left to the Proprietors themselves either to have roads of that description, made at their own expense, or by Tolls established by the authority of Legislative Enactments regularly passed by the Council with the approval of His Excellency the Governor, in the same manner as Road Bills are brought forward and passed by the Legislature at Home.

Construction of parish or private roads.

3rd. With respect to the 3rd and last point, referred by His Excellency the Governor's Minute for the consideration of the Board, they observe that, altho' the Right Honble. the Secretary of State "is not prepared to adhere to the present restriction, by which individuals are prevented from becoming the purchasers of more than 9,600 Acres, still in order to guard against any prejudicial monopoly of Land, His Lordship is unwilling, without further consideration, to introduce any alteration in the present system, and appears to think it the safer course to encourage the Granting of Lands without purchase."

Limitation of areas for purchase.

In order therefore to meet his Lordship's views on this head, the Board beg leave to submit for consideration a modification of the plan, which is at present acted upon in the granting and Sale of Crown Lands, as sanctioned by the King's Instructions; and they trust it will be found more practicable and undoubtedly more satisfactory to Settlers than the existing Regulations on this head.

Plan proposed for restriction of purchases.

As, in a young Colony like this, there is at present and will continue to be a great deficiency of disposable Capital among the great body of the Colonists for some years to come, and as the Secretary of State's object appears to be to retain a temporary controul over the purchasers, as well as over the Grantees of Land, the Board beg leave to suggest that this object may be accomplished by placing it in His Excellency's the Governor's power, instead of advertising the Crown Lands for public sale, to dispose of them to such Applicants as are approved of, to any extent not exceeding 9,600 Acres, as His Excellency may determine, at the valuation price fixed by the three Commissioners appointed to value the Crown Lands, on condition, that the Settlers, who may receive Lands on those terms, shall pay into the Colonial Treasury a certain portion of the price (say 10 or 20 per Cent. as may be determined on) before they receive Letters of possession, delivering to the Colonial Secretary at same time an original Mortgage on the Land so purchased, engaging to pay the remainder of the

Land to be sold at discretion of governor.

Deposit to be paid and balance secured by mortgage.

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price, as fixed on it by the Commissioners, at any time they may wish within a period of 21 years thereafter, and subjecting themselves to the payment of 5 per cent. Interest on the remainder of the price, until the whole shall be paid up; when the purchaser shall of course be furnished with the plenary title Deeds of his Land, holding of the Crown in fee simple, etc., in the same manner as if he had paid down the whole purchase Money at once.

Advantage of proposed system.

The paying down of 10 or 20 per Cent. of the Price as thus proposed, together with the insertion of a clause in the Mortgage empowering the Officers of the Crown to Levy the Quit Rent, if due for a longer period than 18 months, by execution on the property itself, or on the Effects of those in occupation of it instead of the Proprietor who may be absent, would very effectually secure the Interests of the Crown, and would retain in the hands of the Local Government a sufficient controul over the purchasers of Land, until the whole of the price, together with the Quit Rent, should be paid up, after which any further controul would be altogether unnecessary and unconstitutional.

Necessity for permission to purchase from governor-in-council.

As many wealthy Members also of this community have already become the proprietors of extensive tracts of Land, some of them by means far from creditable, and to whom it would not be desirable to attach the degree of influence, which must result from their being allowed to become the purchasers of extensive tracts of Crown Lands in addition thereto, it is obvious that no person should be allowed to Purchase Land, without the Governor's previous permission; and, in order that the odium of preventing individuals of that description from becoming purchasers should not rest with His Excelleney alone, it would be judicious that such restriction should take place with the sanction of the Executive Council.

Proposal for extended grants to settlers with families.

As Settlers likewise of Character and respectability may be expected occasionally to arrive from the United Kingdom, who bring their Families along with them, with the intention of becoming permanent Settlers in the Colony, the Board beg leave respectfully to express it as their opinion that the several heads of Families of that description should not be placed on the same footing with young men who come out as Settlers on speculation; but that His Excellency the Governor should have the power of encreasing their Grants to such extent, as His Excellency may think fit, not exceeding eight square Miles or 5,120 Acres to every such head of a Family, being double the extent of ordinary Grants, a measure which would encourage the emigration of a superior class of Settlers to this distant Colony by making their Grants an object of some importance even to the best class of Settlers.

Reserves to be granted as rewards for public services.

The Board are further of Opinion that His Excellency should have the power of ordering 10,000 Acres in one continuous tract, to be reserved in each of the new Counties, for the purpose of being hereafter granted at his option to respectable Emigrants from Home, or as a reward to individuals within the Colony, who may perform any important Public Services to the Local Government.

Land grants in interior for grazing purposes.

As very extensive tracts of Land also in the interior of the Colony are only adapted for pasture, and are too distant from the sea Ports and Corn Markets to render the Cultivation of the Soil in any degree desirable (with the exception of what is wanted for domestic use), the rearing of extensive flocks of fine wool'd Sheep, together with Herds of Cattle and Horses, can in consequence be

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alone resorted to in those situations with any prospect of success. It being found however by experience that an extensive tract of surface is required for this purpose, even for establishments on a moderate scale, the Board are of opinion that, as the Flocks and Herds encrease of respectable Settlers who devote their Capital to these objects, His Excellency ought likewise to have the power of granting them permission to purchase such additional Land in those interior and distant situations as may be required for the depasturage of their encreasing flocks, etc., to any extent which His Excellency may think fit, not exceeding 30 Sections, or 19,200 Acres in all to any individual Settler.

Land grants in interior for grazing purposes.

WILLIAM STEWART.
WILLIAM DUMARESQ.
JAMES BUSBY.

Land Board Office, 18th September, 1827.

[Appendix No. 6.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR DARLING.

Surveyor General's Office, 20th Septr., 1827.

THE clause, inserted in the grants reserving to the Crown the right of making roads, etc., through the lands of the respective proprietors, does not seem to have its intended import and meaning clearly understood, probaly, in consequence of the nature and description of the Settled Country not being sufficiently known.

Obscurity of clause in land grants *re* roads.

The right reserved is a Right to take such land as may be necessary for a public or parochial road, leading through lands granted, without paying the Grantee for the same. The Settled country is so open that scarcely any thing beyond this right is required, more particularly as refers to cross or Parish roads. To cause the lines of these roads to be marked so that they may, most advantageously for the district, communicate with the Public or Turnpike roads leading to the towns and settled parts of the Country, is all that is required of the Government, for, with the exception of a few slight bridges over hollows and wet places, Nature has effected the rest, by affording in most cases a clear and excellent road. The trees stand wide apart, and do not interrupt or impede the passage of carts and travellers, in proof of which I have only to state that the Country out of the County of Cumberland (the most heavily timbered portion in the Colony) is traversed in every direction by the Carts of the Settlers conveying provisions and necessaries to their distant Stock Stations, without a single line of road (except the leading ones, which are at present in progress of construction) being marked or laid out under the direction of the Government. No Settler, occupying an unenclosed farm, ever denies (indeed he is aware he cannot legally do so) to the public a right of way through it, which, I have before stated, is all that is necessary, the Settled Country offering no obstructions.

Natural roads.

Right of way through unfenced farms.

Before I enter into the question of the expence of the construction of Roads, and of the manner in which certain proportions thereof should be defrayed by the public using them, I will shortly state that there are no such large Grants lying unoccupied and waste, as the latter part of the Paragraph on Roads has reference to. There are no large Grants through which at least one road does not pass, and, in very many cases, they are traversed by

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Difficulty in alignment of roads.

three; but these Roads, chiefly used by stock and light travelling carts, do not require making; and it would be impossible for any Settler, in the infant state of the Colony, to form a precise idea of the proper line of road which may ultimately be required for general communication; it would be therefore worse than useless to compell him to make a road (even if the nature of the Country, he had settled on, required it) which might afterwards be abandoned, as not communicating most conveniently, or being in connection with either the settled lands of the Hundred and Parish or even the great Public Roads leading through the principal Towns.

Expenditure on construction of roads.

The expence attending the general construction of Roads, and the means whereby the Public can most equitably and conveniently be compelled to pay a due proportion of that expense (Government assisting) appear to be the principal points, adverted to in that part of the despatch which respects roads, the consideration of which too is in every view of the utmost importance to the prosperity of the Colony at large.

Construction and maintenance of main roads.

The Cost attendant on the construction of the Public Main Roads, by which I mean those leading lines that have either been formed or are at present in progress by the labour of Convicts, is necessarily, and I submit properly defrayed by the Crown. The Convicts worked on the Roads cannot otherwise be employed; they are principally incorrigible characters, sentenced to work thereon for continued misconduct in the Service of Private Settlers; there is no other mode of punishment which so effectually answers the purpose at comparatively so trifling an expenditure; these people must be employed, and to employ them in rendering the communications with the different parts of the Country more convenient will in the end be amply repaid by the encreasing population of the Interior and of the Country immediately adjacent to the roads so constructed, for it must be remembered that, on all such roads when finished, a Toll is laid, certainly small in the aggregate amount in the first instance, but undoubtedly encreasing every year, in proof of which may be adduced the Amount of Tolls at present collected on the roads as compared with the Sum collected ten years ago. This sum has encreased in proportion of at least 6 to 1 within that period, and is still annually encreasing. It is not stated or assumed, that these Tolls defray the whole expence of the construction of the Roads or even the interest of the money expended. It is perhaps sufficient that, while it is impossible to employ more beneficially the Convicts who work thereon, a return, at least proportionate to the present inland traffic and population of the Colony, is received in aid of the Colonial Fund.

Parish or cross roads.

The remaining branch of this subject relates to such roads as lead to or from Farms not bordering on the great Public roads just adverted to, and on which the Principal Towns and Villages are situated. These Roads, by way of distinction, may be termed Cross or Parish Roads. They require as before stated little or no formation, as the upper crust of the natural soil will remain passable for years without having the least labour bestowed upon them. There is not, it is true, much Cart traffic generally on such roads; but, when there is, a Toll may be levied sufficient to defray a portion of the expense of making them, as is adopted with such public benefit on the Main Roads.

There is however a certain expence attendant on these cross Roads, when in their natural state, which ought to be provided for

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by the proprietors of the lands requiring them for their own and indeed the Public convenience. As the right to the land, over which the Roads lead, is reserved in the Crown, no compensation to the proprietors can be claimed for its appropriation to such a purpose, and never has been, except indeed in a very few cases arising out of the peculiar nature of the grants given to the earliest Settlers, and these of very small extent. Compensation is however constantly being claimed for the damage, which accrues to the proprietor whenever a Main or Cross Road is newly laid out through enclosed and improving land. Increasing population and the necessity for a greater number of lines of communication are continually rendering the old one insufficient; and, as many of these old lines or roads have been fenced off by the Proprietors, any new ones or beneficial alterations on the old ones render it a most serious matter to the individual affected.

Problem of construction of roads through improved lands.

Few can defray in the first instance the cost of entirely enclosing their Grants; but, where in the course of Years this has been effected, to throw open land thus enclosed is absolutely ruinous to the Proprietors, and I submit that he has a just claim on the public for whose convenience his property has thus been exposed. It is the expence, attending the opening and refencing of enclosed lands, that the Parishes and Parties requiring Roads should be called on to defray, which, I submit, may be easily and equitably effected by a rate on all the lands in the Parishes of the Hundred through which the roads pass. This may be levied acrebly on the lands in proportion to the sum required, which might (to prevent unnecessary and groundless charges) be levied under the authority of the Magistrates acting for the Hundreds and Parishes affected by the measure. This would necessarily require a legislative enactment, having for its object the general regulation of Cross and Parish Roads (leaving in the hands of Government, as at present, the Public ones on which tolls are or will be collected).

Proposed rates on lands.

No clauses or conditions, inserted in the Grants themselves, would have in my opinion any effect: the more numerous they are, the less probable it is that they can be beneficially enforced, more particularly when the Breach of any of them (all others being complied with) may be visited with the extreme penalty of Forfeiture of estate and Property; and indeed this is the less necessary so long as a power exists in the Governor and Legislative Council to make such enactments relating to internal regulation and local taxation, as the peculiar Situation and Circumstances of the Colonists appear to require, and as are just and equitable in their operation.

Objections to insertion of provisionary clause in grants.

I have frequently used the terms Hundreds and Parishes in these remarks, because His Majesty's Instructions* direct such political divisions, and because these divisions will afford peculiar facilities, as regards any Assessments which may be rendered necessary in imposing a certain portion of the expence attending the roads on the Inhabitants. In explanation of the Principle on which Assessments may be levied on the Parishes, I will state a case which is of very frequent occurrence. Application is made to the Governor by certain inhabitants of a Parish to enable them more conveniently to communicate with the Market Towns on the Main Roads. The Roads they require is directed to be marked, and is found to extend through three Parishes (the Hundred comprising four). In length this Road is five miles, and the amount in

Use of terms hundreds and parishes.

Parish assessments.

 * Note 88.

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compensation claimed by the several Proprietors, through whose lands the line passes, about £300, which claims are admitted at the General Quarter Sessions for the division of Country in which this Hundred and Parish is situated. The quantity of land in the whole Hundred (for I consider, if the necessity for the road is satisfactorily proved, that the whole should contribute towards that which is certainly a common benefit) may amount to about 72,000 Acres, which rated Acreably will render an Assessment of 1d. for each acre, held of the crown, sufficient to defray the charge. Thus a farm of 1,000 Acres contributes £4 3s. 4d., and the farm of 60 acres 5s. each, paying in proportion to the presumed extent to which the road may be used. This however assumes that the whole land in each parish and Hundred is either granted or sold; but, if that should not be the case, then the Crown should pay the same rate for any lands which they may have retained. As it is clear the Government might have either sold or granted these waste lands, it is only equitable that it should contribute towards a work which will of course render such lands more valuable. This claim on the Crown can however only last for 3 Years after the first Settlement and Valuation of a Parish, as His Majesty's Instructions direct that whatever lands in a Parish remain ungranted or sold are, after that period, to be sold for whatever sum may be offered.

Method of assessment.

Difficulty in fixing average value on ungranted lands in settled parishes.

In reference to the last Paragraph of Earl Bathurst's Despatch, in which the difficulty of fixing an uniform average value on the lands in Parishes partially settled, adverted to by me in a report to Your Excellency dated 26th Jany., is considered by his Lordship as affecting Settlers who are located on the refuse land of a Parish, I beg to submit that my remarks on that subject had more immediately relation to the practical difficulty of fixing an aggregate value on all the lands of a Parish, the greater portion of which was granted and held under different values. Thus in many Parishes there are Grants held on the Quit Rent of 2s. per hundred Acres, or at the rate of 4¾d. per Acre, while the Proprietor of the adjoining land pays 15s. per hundred acres or at the rate of 3d. per Acre, another Proprietor in the same Parish 20s. per hundred Acres or at the rate of 4d. per Acre; and, notwithstanding these, several Quit Rents were imposed without any reference to the actual money value of the land; each Settler knew the Quit Rent he would be charged with, and, selecting his own land, he was satisfied. It was under these circumstances that I stated the difficulty of affixing an average value to lands in Parishes settled under such various rents, having no relation in actual value to each other. As to the lands remaining ungranted in a Parish, I did not contemplate any difficulty in fixing their value, which of course would be relative; and the Settler, who might be placed on them, would only be charged that value and not the aggregate value of the whole Parish as directed by the Instructions. It must be remembered that no Settler is compelled to take or fix upon these refuse lands; and, as your Excellency has always conceded the indulgence of Selection to Settlers, there is no instance of dissatisfaction on that point; but, even if Settlers were compelled to take the lands which remained waste in the old settled Parishes, they would only be charged accordingly. The difficulty is more in form than practice, and is entirely removed by Selection being permitted. His Majesty's Instructions appeared to withhold from the free Settler the right of Selection, until the lands had been exposed to public

sale for a determinate period, when probably only the worst lands would remain open to him, as stated to Your Excellency in my report on that part of the Instructions. 1828. 2 Aug.

J. Oxley.

[Enclosure No. 2.]

Minute for the Consideration of the Executive Council.

It is submitted in reference to Paragraphs No. 17, 18, and 19 of the Minute dated the 12th June instant, with respect to the subject of Lands to be disposed of by Sale. Proposed modification of conditions for sale of land.

1st. That Individuals, authorised to Purchase, be permitted, in consequence of the arrear of the Survey, to Select Lands the same as Persons receiving Grants without Purchase.

2nd. That the Land selected be advertised and put up to Sale at the expiration of One Month from the Date of Advertisement, and be sold to the highest Bidder approved by the Governor, as directed by the Secretary of State.

3rd. That the Land be put up for Sale, subject to the Average Quit Rent, redeemable at any time within Twenty Years.

4th. And, in order to prevent excessive Prices being bid, and to insure that the Bidders are capable of purchasing, that the Sum, bid over and above the Annual Quit Rent, be paid down in One Sum within the period of two Months from the Day of Sale, previous to which the Purchaser shall not be put in possession of the Land; and, in failure of payment being made at the prescribed period, the Sale shall be considered void.

To shew that a Regulation, such as is now proposed, cannot have the effect of excluding Persons, who have a claim on the score of Capital to be admitted as Purchasers, it will be sufficient to state that, supposing the Land to be Valued at 3s. 4d. an Acre, which at 5 per Cent. would yield an Annual Quit Rent of 2d. per Acre, and the Land should be sold as high as 5s., the Sum, which the Purchaser would be required to pay down, would be 1s. 8d. an Acre; and, supposing him to purchase to the extent of three Square Miles or 1,920 Acres, the whole Amount would be only £160. It may fairly be presumed that a Person, who cannot command this Sum, has no claim to be considered a Candidate for Purchase, the Principle, laid down by His Majesty's Government, being that Individuals should receive Land in proportion to their *Available* Capital.

If the Purchase Money be left as hitherto to be paid by Instalments, and the Purchaser obtain immediate possession of the Land, there is no doubt of the fact, as stated by the Late Surveyor General in his Report of the 16th December, 1827 (which has been proved over and over again), that Individuals will bid Sums, which they have no means of paying in the expectation that, if they can once obtain possession of the Land, the Government will not oblige them to relinquish it in consequence of their failing to fulfil their Engagements.

It is considered that the aforegoing embraces the several objects proposed by the Secretary of State, namely, Insuring the Improvement of the Land sold in the same degree as that granted, and placing the Grantee and the Purchaser on as nearly an equal footing as circumstances will permit.

Ra. Darling.

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Minute for the Executive Council.

18 June, 1828.

Proposed extended grants to settlers with families and unmarried resident settlers.

It being suggested in the Reports of the Late Surveyor General, dated the 16th of December last and of the Land Board of the 18th September, whether it might not be expedient to make Grants beyond the ordinary extent to Settlers of respectable Character and Condition bringing out Families; and, the late Surveyor General having further suggested that Unmarried Settlers, intending to reside immediately on their Land, should also receive additional Land, as an encouragement to personal Residence, the Opinion of the Council is requested whether their suggestions should be adopted and what additional Land it might be proper to grant in the respective cases.

Ra. Darling.

[Enclosure No. 3.]

Extract from the Proceedings of the Executive Council.

14th June, 1828.

Deliberations of executive council *re* general average valuation of lands.

Present:—His Excellency The Governor; His Honor The Chief Justice; The Venerable The Archdeacon; The Honble. The Colonial Secretary.

The Council resumed the consideration of His Excellency The Governor's Minute dated the 12th inst., which was laid before the Council at their last Meeting.

The Minute was then read before the Council seriatim.

The Council unanimously approved the principle proposed of establishing an Average Valuation, at which Settlers should be permitted to select Grants of Land in the unsurveyed Districts within the present boundaries.

With a view of ascertaining what might be considered a fair average value of such Lands, the Council examined Mr. Cordeaux, one of the Commissioners for the Division of the Territory, and requested to be informed upon what data the Commissioners had recommended, in their Letter of the 26th April, 1828 (see Appendix to Governor's Minute), an average value of 3s. an Acre. Mr. Cordeaux informed the Council that he feared the Commissioners had over estimated the value of such Land.

From calculations which he had subsequently made, and which he then detailed to the Council, he was of opinion that the Value of Land, to an Individual who is permitted to select Land within the present Boundaries, does not exceed 2s. 2½d. an Acre.

Mr. Cordeaux then withdrew from the Council.

The Council, feeling desirous of examining further evidence on this subject, ordered that some of the most intelligent Landholders should be requested to attend at the next Meeting.

The following Gentlemen were named, as Persons qualified to give information on this subject, and the Clerk was ordered to request their attendance accordingly, Vizt.:—

Mr. H. MacArthur; Mr. Wm. Cox; Mr. Ed. Wollstonecraft; Mr. R. Jones; Mr. J. Street.

The Council adjourned to Wednesday, the 18th inst.

Wednesday, 18th June, 1828. 1828. 2 Aug.

PRESENT:—His Excellency The Governor; His Honor The Chief Justice; The Venerable The Archdeacon; The Honble. The Col. Secretary.

Deliberations of executive council *re* general average valuation of lands.

The Council resumed the consideration of His Excellency The Governor's Minute, dated the 12th inst., and, in pursuance of the Order made at the previous meeting, the several Gentlemen, whose attendance had been requested, were examined separately before the Council, and to each of them the following Question was put, Vizt.:—

What do you consider is the Average Value of Land, within the Boundaries prescribed by Government for the Location of Settlers, to an Individual who is permitted to select a Grant of Three Square Miles or 1,920 Acres of Land, It being understood that the Grantee will pay an Annual Quit Rent of Five per cent. on such valuation, with the privilege of redeeming it at 20 Years' purchase within 20 Years from the date of his entering into possession; also taking into consideration that the Valuation so fixed, is intended to apply to all Grants of Land made subsequently to the 1st January, 1826.

Mr. Wm. Cox of Clarendon stated it to be his opinion that Land, selected under these conditions, might be valued at 5s. an Acre.

Mr. H. MacArthur stated that he did not consider the value of Land under any circumstances to be more than 1s. 6d. an Acre.

Mr. Ed. Wollstonecraft informed the Council that, in considering the Question which was put to him, he referred to what was the value of waste Lands in Upper Canada, and found that it was estimated at 4s. Currency, including all Fees. Judging by Analogy, he arrived at the conclusion that Land in this Colony was of equal value, and therefore, taking into consideration the difference of Exchange and the probable amount of Fees, it would reduce the value of Land here to about 3s. an Acre.

Mr. R. Jones stated it to be his opinion that Lands, Granted within the present Boundaries in the manner proposed, might be fairly valued at from 2s. 6d. to 3s. 6d. an Acre.

Mr. J. Street of Bathurst informed the Council that, viewing the question as it related to the District of Country where he resided, he considered the Value of Land to be from 1s. 6d. to 2s. 6d. an Acre.

It appears from the foregoing Evidence, and Documents laid before the Council, that the choice Lands within the Present Boundaries have been valued by different Individuals as follows, Vizt.:—

	s.	d.
Commissioners for the Valuation of Land	3	0
Mr. Cordeaux	2	2½
Mr. Cox	5	0
Mr. H. MacArthur	1	6
Mr. Ed. Wollstonecraft	3	0
Mr. Jones	3	6
Mr. Street	2	6
7	20	8½
	2	11½

The Average of the above being 2s. 11½d.

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Deliberations of executive council *re* general average valuation of lands.

The Council, having duly weighed the Evidence of the several Gentlemen who had been examined, and considered the data upon which they appeared to have estimated the value of Land, were of opinion that the privilege of selection, which is allowed to the Grantee, had not been sufficiently considered, though it was very evident that under such circumstances the best Lands only would be chosen.

It is stated, in Mr. Commissioner Biggs 3rd Report, p. 48, that the Average Value of Land in this Colony, in the Year 1820, was considered to be One Dollar per Acre, and, subsequently to that period, Land has been sold to a considerable extent for 5s. an Acre under conditions, which are less favorable to the purchaser than those now proposed by the Governor's Minute; taking all these circumstances into consideration, the Council were of opinion that the Valuation, fixed by the Gentlemen who had been examined, were for the most part too low, and advised that the value of all unsurveyed Lands, which might be situted, within the present Boundaries, should be fixed at 4s. 2d. per Acre which at 5 per Cent. will yield an Annual Quit Rent of 2½ per Acre or 20s. 10d. per 100 Acres.

The Council were further induced to recommend the foregoing valuation from its near approximation to the sum of 20s. per 100 Acres, which has been levied upon all Lands rented with a view to purchase during the last Two Years, and which, His Excellency The Governor informed them, had been approved by the Right Honble. The Secretary of State.

T. DE LA CONDAMINE, Clk. Col.

MINUTE No. 6.

Council Chambers, 19th June, 1828.

PRESENT:—His Excellency The Governor; His Honor The Chief Justice; The Venerable The Archdeacon; The Honble. The Col. Secretary.

The Council, having assembled in pursuance of summons, His Excellency The Governor requested, in reference to the Proceedings on the previous day, that the Council would again take into their consideration the Value, which they had recommended should be fixed on all unsurveyed Lands within the Boundaries. It appeared that the Sum of 4s. 2d. per Acre, which the Council had recommended, exceeded with only one exception the supposed Value of Land, as stated to the Council by the several Gentlemen who had been examined, and was also considerably higher than the Average of these Valuations, when taken collectively.

With reference to the circumstance, adverted to in yesterday's Proceedings, of Land having been sold during the administration of Sir Thomas Brisbane to a considerable extent at 5s. an Acre, His Excellency The Governor informed the Council that, with the exception of a deposit of 10 per cent., which was paid by the Grantees, previously to their obtaining possession of the Land, no part of the purchase money had ever been received by the Government, notwithstanding that the period, when the last Instalment should have been paid, had expired, but, on the contrary, the several Individuals, who had received Land under these conditions, had recently addressed a joint Memorial* to the Government, praying that the Terms, on which they had purchased the Land, might be changed on the ground of their being totally unable to advance the Sums which had become due.

* Note 90.

1828, 2 Aug.

Deliberations of executive council *re* general average valuation of lands.

The Council, having carefully reviewed the opinions of the several Gentlemen who had been examined at the previous Meeting, and having reconsidered the subject with reference to the Evidence now laid before them, they unanimously concurred in the opinion that the Value of Land within the Boundaries had been too highly rated at 4s. 2d. an Acre as a general average, and were apprehensive, that such a Value, as applying to Original Settlers, might tend to discourage Emigration. Under these circumstances, the Council were induced to revise their former opinion, and to advise that the Average Value of Land selected within the present Boundaries should be reduced to 3s. 4d. an Acre, which at 5 per cent. will yield a Quit Rent of 2d. an Acre, or 16s. 8d. per 100 Acres.

In adopting a lower Average to that which had been first proposed, the Council were influenced by the consideration that it was desirable to afford every facility to Persons newly arrived in the Colony, and to give them Land in the first instance on the most favorable terms. These Individuals must necessarily take their first Grant of Land at the valuation which is fixed upon by Government, and the average has therefore been reduced with a view to their benefit; while on the other hand, it was presumed that, in the case of Persons wishing to extend their Properties by Purchase, the price of Land would not be materially diminished, for it is only reasonable to suppose that, if the Land is put up for Sale at a low valuation, on which a perpetual Quit Rent of 5 per Cent. will be paid, the Sum offered by Candidates for Purchase, in addition to such valuation, will be proportionably higher; and the amount ultimately obtained will not be less than if a higher value had been fixed as the upset price; such will naturally be the result, when Land is offered to Public Sale.

T. DE LA CONDAMINE, Clk. Col.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch marked "Private," per ship Boddington.)

Sir, Sydney, 2nd August, 1828.

Having considered attentively the subject of the Private Letter, which Earl Bathurst did me the honor to address to me under date of the 2nd April, 1827, suggesting the expediency of the *Purchasers* of Crown Lands and *Grantees* being placed as nearly as possible on the same footing, it will perhaps simplify the Question, which it would appear has arisen from an erroneous impression that there are Persons, who are desirous of purchasing rather than receiving Land by Grant, to state that no such Case appears ever to have occurred. Individuals might perhaps prefer purchasing, if the Purchaser and Grantee could be placed precisely on the same footing; but it would not be easy to effect this, nor does it appear to me that it would be in any respect advantageous or desirable, even if it could be effected without difficulty or inconvenience. According to the existing System, the Purchaser, who pays for his Land in the first instance, enjoys it for ever free of Quit Rent. The Grantee pays

Relative situation of grantees and purchasers of crown lands.

1828. 2 Aug.

a Quit Rent equal to 5 per Cent. on the estimated Value of the Land, with power to redeem it within 20 Years at 20 Years' Purchase. It would perhaps be difficult to place the Parties more nearly on an equality than they are by this Arrangement. The purchaser is not obliged to pay more than the Land is worth. If he does, he does so voluntarily; and it is not unreasonable that he should pay for the gratification of his fancy or the Advantage he considers he shall derive from the possession of the Land. The Grantee, who pays an annual Quit Rent, may relieve himself by paying up the Quit Rent and thus place himself on the same footing as the Purchaser.

Relative situation of grantees and purchasers of crown lands.

It does not however appear to me that it would be a judicious policy on the part of the Government to encourage this. It is, I think, on the contrary the Interest of the Government to establish a Quit Rent generally and thus provide the means of meeting its Expenditure, and prevent the necessity of imposing Taxes for this purpose.

Proposed quit rent on lands purchased and granted.

2. I have suggested, in my Despatch No. 93 which accompanies this Letter, that all Lands, whether received by Purchase or Grant, should pay Quit Rent, and the Council, on the most mature consideration of the Question, as will be seen on reference to the Minutes of its Proceedings, which are forwarded by this opportunity (See Enclosure* with Despatch No. 92) concurred fully in the view I had taken of it. I can only repeat that no instance appears ever to have occurred here of a Person being desirous to purchase rather than receive Land subject to the payment of Quit Rent. The point therefore for consideration is to what extent and under what circumstances, a Settler should be allowed to receive an *additional* Grant, that is, beyond his original Grant of four Square Miles (2,560 Acres) if it be deemed expedient to prevent or check his Purchasing. For my own part, taking care to insure a moderate Quit Rent, which appears to me desireable in all cases, for the reasons already stated (and which I consider 5 pr. Cent. to be on the estimated Value of the Land, when 10 pr. Cent. is the Interest commonly paid in the Colony and of late more than treble that Sum has been given for the use of Money), I can see no reason to prevent Individuals from purchasing. The mode, proposed for this purpose in my public Despatch, would prevent larger Sums being bid than the Parties could conveniently afford to pay, and would further have the effect of keeping Individuals out of the Market, who possess no means, but come forward as Purchasers when Credit is allowed, from a greedy desire of obtaining as much Land as possible. The Sum bid above the Quit Rent would assist in meeting Incidental Expenses, and the Quit Rent (the

* Note 89.

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payment of both being voluntary, no Person being compelled to purchase) would prevent the necessity of levying additional Taxes and the dissatisfaction, which is usually occasioned by imposing them.

Improvement conditions.

It appears to have been suggested to my Lord Bathurst that the Purchaser and Grantee should be subjected to the same "rigorous Rules of Cultivation." The Council and myself concur so fully in this opinion that we have recommended that the Purchaser and Grantee should be required to expend a Sum equal to the full amount of the estimated Value of the Land in its improvement, *One fourth*, the sum prescribed by the present Regulations, being too insignificant to answer the purpose intended; and further, that neither should be permitted to alienate his Land for a period of Seven Years, which will more effectually prevent Persons obtaining Land for the purpose of Jobbing and insure the improvement of that which they do obtain, than any other Regulation which can in my Opinion be devised.

Prohibition of alienation for seven years.

Proposed discount on prompt payments.

The next point, adverted to in Earl Bathurst's Letter, is the *Discount* to be allowed in the case of "present Payment," which it has been suggested to his Lordship should be in proportion to the advantage gained by the Grantee in not paying Quit Rent for a period of Seven Years. It appears hardly necessary to provide for such a Case, as it is as little likely to occur as that of Persons being desirous to purchase rather than receive Land by Grant. But I beg to state, which I do with great deference, that the suggestion appears to have originated in a misapprehension of the immediate Situation of the Purchaser, which is similar to that of an Individual receiving an *additional* Grant, who pays Quit Rent from the moment, and not to the Situation of what is termed an "Original Grantee," who does not pay Quit Rent, until the expiration of Seven Years; inasmuch, as no Person has ever come forward to purchase, until he had obtained all the Land he was likely to receive by Grant. In the event, however, of a Person receiving Land without purchase in addition to his original Grant, such additional Land would be subject to Quit Rent from the moment of his receiving it. It is therefore presumed that the Amount of the Discount for prompt Payment should not be regulated in the manner, which has been suggested to my Lord Bathurst. It is, I beleive Sir, unnecessary to trespass further on your time in replying to the Letter now under consideration. What I have written will, I hope, furnish sufficient information on the point referred to me, though the Propositions, which are contained in my public Despatch accompanying this Letter, should not be adopted. The adoptions of those Propositions, which are submitted after long and mature

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2 Aug. consideration of the local circumstances which affect the general Question, would at once put an end to the suggestions on which Earl Bathurst's Letter appears to have been founded.

I have, &c.,
RA. DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Royal Sovereign.)

3 Aug. Sir, Downing Street, 3d August, 1828.

Medical stores appropriated to hospitals. I have received and have laid before Secretary Sir George Murray your letter addressed to Mr. Hay, of the 30th of September, 1826, relative to the transfer to the Colonial Government of such Medical Stores as may remain in the hands of the Surgeons of Convict Ships on their arrival in New South Wales, in which you suggest that, as such Stores are shipped in the first instance for the use of the Convicts, and as the remaining part of them is appropriated to the Convicts in the Public Hospitals, it will be unnecessary that their value, which you state to be inconsiderable, should be paid or accounted for by the Civil Government.

Necessity for accounts. On reference to the Commissioners of Victualling, it appears that, during the years 1826 and 1827, these Stores amounted in value to the sum of £1,052 15s. 10d., and Sir George Murray therefore thinks it right that an amount so considerable should be accounted for under the arrangement communicated to you in Mr. Hay's letter of the 5th of October, 1826, and I am, therefore, to desire that you will carry this arrangement into effect.

I am, &c.,
HORACE TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 20, per ship Royal Sovereign.)

4 Aug. Sir, Downing Street, 4th August, 1828.

Reduction in duty on kangaroo skins. I have the honor to acquaint you that, in consequence of a representation, which was made to this Department by individuals connected with New South Wales, of the high rate of duty charged on the importation into this Country and subsequent manufacture into Leather of the Skins of the Kangaroo, the subject was brought under the consideration of the Lords of the Committee of Privy Council for Trade, and their Lordships have stated that the duty on this Article has, by a late Act, been reduced from 20 per cent. to 5 per cent. ad valorem.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828. 4 Aug.

(Despatch No. 94, per ship Boldington; acknowledged by Sir George Murray, 13th April, 1829.)

Sir, Government House, 4th August, 1828.

Claim of F. A. Hely for remuneration re tickets of leave.

Mr. Hely, the Principal Superintendent of Convicts, having repeatedly urged a claim to remuneration for the Additional duty he has to perform in carrying into effect the Regulations under which "Tickets of leave" are granted to Prisoners of the Crown, I desired he should be called on to state the duties connected with this object, in order, Sir, that you might be the better enabled to form an opinion as to the grounds of his claim. I have accordingly the honor to transmit, Sir, for your information Copy of a Letter from Mr. Hely, detailing the particulars required, by which it will be seen that this duty imposes much additional trouble upon him.

It was my intention, in the first instance, that the business connected with "Tickets of leave" in Sydney should, as in the Country Districts, have been carried on by the Police Magistrate; but the more immediate duties of that Officer in Sydney did not permit of his attending to it. Besides which, the Superintendent of Convicts has from the nature of his office better means of being acquainted with the general Character and Claims of the Prisoners than any other Individual, and he is consequently called on by the Magistrates of the Country Districts for information respecting the Prisoners, who apply to them for Tickets of leave. Thus Mr. Hely's Office has no doubt received a considerable encrease of business by the arrangement, and, under this impression, I have consented to his drawing an extra Allowance of £100 a year as Chairman of the Ticket of leave Committee subject to your approval. I beg to enclose a Statement of the Tickets granted and refused during the Twelve Months ending in March last, so as to enable you to judge, Sir, more fully of Mr. Hely's claim. I have, &c.,

Allowance granted as chairman of ticket-of-leave committee.

RA. DARLING.

[Enclosure No. 1.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Sir, Principal Supt. of Convicts Office, 9th May, 1828.

Duties of F. A. Hely in administering ticket-of-leave regulations.

Adverting to your suggestion that I should submit, for the information of the Governor, a detail of the Duties which, properly appertaining to the Sydney Bench, have devolved upon me by Command of His Excellency under the Ticket of Leave Regulations of 1827, I beg leave to state.—

1. All Applicants for Tickets of Leave in Sydney and the Districts of Hunter's Hill, Pitt Water, Lane Cove, Kissing Point, Cook's River, and Botany Bay, apply personally at my Office. In the first place, they leave their printed applications properly filled

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Duties of F. A. Hely in administering ticket-of-leave regulations.

a Fortnight or three Weeks before the Sitting day of the Committee, in which interval the necessary examinations and references are made. The Candidate being apprized, when he leaves his Paper, of the day he is to attend for personal examination.

2. The Magistrates and others, from whom information is likely to be derived, of every District in which the applicant states he has served, are written to in the interval, which elapses between his leaving his Paper and the Meeting day of the Committee; the results of which, together with those of the Examination of the Records of the Police and Convict offices in Sydney, are noted on the back of his application for the information of the Committee.

3. The Committee meet once a Month, and a List, Alphabetically arranged, of the Names of the applicants having been prepared, and with the original applications laid before them, each Individual, Male and Female, are called in the order in which their Name appear, and undergo the strictest Examination, which circumstances permit, as to the Number of Masters they have served; the occasion upon which they were discharged or transferred; whether they have been ever taken before a Magistrate or punished, etc.; and, should any thing be elicited that required further reference (as is not unfrequently the case), they are remanded to the next Monthly Meeting of the Committee to afford time for further Enquiry. Instances are not rare in which Prisoners have been remanded from Month to Month in this way, in order that their case may undergo the strictest investigation; and, should any offence of a *venial* nature appear, that could not be considered as a *final* bar to the applicant receiving the Indulgence, he is frequently remanded from Six to Twelve and Eighteen Months, as a probationary interval in which he is expected to give proof of an amended or reformed character, at the expiration of which, the Committee pledge themselves to recommend him, if he should be found deserving.

4. The Chairman of the Committee endorses each Application that passes in red ink, with the Name of the District for which the Individual is recommended to have his Ticket of Leave, from which the Clerk in charge makes up the return, which is periodically submitted for the Governor's inspection and approval.

In like manner those remanded (with the reason for so remanding) and those rejected are indorsed and filed in the record office of the Convict Department.

This, Sir, is an outline of the Duty the Ticket of Leave Committee performs, and I feel assured that it is altogether unnecessary for me to point out the portion of it which devolves upon me. In fact my Official and individual knowledge of the parties, who appear before it, qualify me for the Duty in a degree that no other Magistrate can be expected to possess, and frequently imposes a responsibility very unpleasant, as I am often obliged to detail facts disadvantageous to the candidate, that could not be found on record any where.

Independently of what has been detailed in the preceding, it is my duty under the Regulations alluded to (No. 27/1) in the execution of my own proper office as Principal Superintendent of Convicts, to examine and report on every List of Ticket of Leave claimants sent in from the Country Benches and Districts, prior to their being laid before His Excellency.

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I therefore respectfully submit that, for the performance of a troublesome and Extra official Duty like that detailed, I may, without being considered unreasonable, claim some pecuniary consideration, the more particularly as the Salary attached to my Appointment is altogether unequal to the respectable support of my Family in Sydney; and request that you will please to take an early opportunity of laying this with my humble duty before His Excellency.

Request for remuneration.

I have, &c.,
FREDK. A. HELY.

[Enclosure No. 2.]

NUMERICAL List of Tickets of Leave recommended by the Sydney Beneh under the New Regulations.

Return of applications for tickets of leave.

1827.	No. Granted.	No. Refused.	Total recommended.
26th March	41	7	48
3rd to 27th April	85	8	93
14th May	55	19	74
26th July	27	30	57
6th and 12th September	31	23	54
27th November	25	27	52
31st December	9	7	16
1828.			
18th January	10	10	20
6 to 26 March	12	19	31
Total	295	150	445

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

Dear Sir, Downing Street, 5th August, 1828. 5 Aug.

In consequence of the enclosed letter from Mr. J. E. Dowdeswell, Member for Tewkesbury, I beg to recommend to your protection the three persons therein named, Mr. John Proctor and Mr. Richard Proctor, two Brothers, and their Cousin, Mr. Richard Proctor; and I shall feel obliged to you for any facilities which it may be in your power to afford to them consistently with established Regulations.

Recommendation in favour of J., R. and R. Proctor.

I remain, &c.,
HORACE TWISS.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 95, per ship Boddington; acknowledged by Sir George Murray, 14th April, 1829.)

Sir, Government House, 5th August, 1828.

I have the honor to forward the accompanying Memorial of Michael Connor, who considers himself aggrieved in not being allowed to receive Land as a Settler under the general Regulations.

Transmission of memorial of M. Connor;

I beg to transmit at the same time the Report of the Land Board on the investigation of Connor's Capital, and to express my opinion that the whole proceeding is an imposition, which this

and of report by land board.

* Note 3.

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Individual has probably been led to attempt at the instance of his Brother, who came out as a Convict and was employed for some time in the Prisoners' Barracks, but dismissed for fraudulent purposes.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

The Memorial of Michael Connor.

Memorial of M. Connor.

To the Right Honble. Mr. Huskisson, Secretary for the Colonies, etc., etc., etc.

Respectfully Sheweth.

That Memorialist arrived Free in this Colony per the Ship "Medway," the latter end of 1827.

That, previous to his Embarkation for this Colony, he was furnished with an application, a Letter from the Colonial Office, Downing Street, London, wherein it was stated that he should receive a Grant of Land in proportion as he possessed means to be sanctioned of course by the Governor in Chief.

Memorialist begs leave most respectfully to say, having furnished his Friends in Europe with Documents to be submitted to you, he will not enter into detail of circumstances in this Memorial only to state that he applied for the Grant, produced the Letter from the Colonial Office, exhibited his means in the most satisfactory manner, submitted to an investigation which was never required of any other Person (in fact no other Person would submit to such a cruel degrading inquisition) and after all was refused.

Memorialist humbly represents that the expectation of a Grant of Land was the only inducement to withdraw him from his Friends and Country, and to emigrate to this Colony, his expectations disappointed, his hope blighted, the consequences ruinous.

Memorialist humbly submits his case to your consideration, praying for a favorable result.

And Memoriallst as in Duty bound will ever Pray.

Sydney, New South Wales, 1st June, 1828.

[Enclosure No. 2.]

The Land Board's Report No. 213.

Land Board, 28th Feby., 1828.

Report by land board on application by M. Connor for primary land grant.

The Board beg leave to acknowledge the receipt of the Colonial Secretary's letter of the 22nd January, 1828, marked B. No. 28/5, covering the application (herewith returned) of Mr. Michael Connor for a primary Grant of Land, and requiring of them to take the necessary measures for ascertaining the Amount of that Gentleman's Capital, which is now available in this Colony for Agricultural purposes, and also requiring him to produce the letter with which he was furnished by the Secretary of State.

The Board have accordingly the Honor to report that Mr. Michael Connor appeared before them on the 21st February and gave in the accompanying Schedule of his Capital Amounting to £2,093 3s. 1½d.

The Board have occasion to remark with reference to the case of this individual that, owing to his being so entirely a stranger to the Colony as not to be able to refer the Board to any Person

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Report by land board on application by M. Connor for primary land grant.

of standing in it, except his Brother and Dr. Redfern, who states he has no knowledge of him except as arising out of a transaction for the purchase of some Stock, that the Board have by no means satisfied themselves that the Capital adduced by Mr. Michael Connor is actually and bona fide his own. Mr. J. Connor, the Brother, the Board did not think it necessary to call upon, as they could not reasonably expect from him any other than an echo of the Statement made by Mr. Michael.

It appears that Mr. Michael Connor, who is about 20 Years of Age and Brother of Mr. J. Connor, late Supt. of the Prisoners' Barracks, who came out a Prisoner to this Country, is also one of seven Children, the father having been during his life a considerable Farmer in Ireland, on land rented from Lord Ross, the Mother with one of the Brothers and two Sisters being still in occupation of the Farm; that, at the age of 15, he was apprenticed to Mess. St. George Greig and Arthur Powell, Merchants in Dublin (friends of their family); that not keeping in good health, and his Brother from this Country urging him to come out, induced him to undertake the Voyage, Mess. Greig and Co. having agreed to give up his indentures for that purpose.

It is stated by Mr. Connor that, at his Father's death, on the division of his property, he became entitled to a Sum of money amounting to two thousand Pounds, which Sum was advanced by his Guardians (he being under age) on his embarking for this Country. The Land Board on enquiring by what means this property was imported, learn that it was brought by Mr. Connor in Sovreigns among his personal Baggage, uninsured and without any one on Board the Ship in which he came out (the "Medway" in October, 1827), being aware such property was in the Ship; and that, on landing in the Colony, the property with his Baggage was immediately conveyed to the house of his brother Mr. J. Connor in Castlereagh Street. The Board cannot but observe how extraordinary and unusual such a Method is of transferring property from one distant Country to another, particularly by people connected with Merchantile affairs, as in the present Instance, and the Board cannot but entertain strong doubts, if the Guardians of the Applicant would be justified, or likely to give up property in such a manner to a Minor.

The fact of the property, stated as having been left by the Father, might be ascertained by obtaining from Dublin a *probate* of the Will, the Father's death being stated to have taken place about 7 Years ago.

From the documents produced to the Board, they cannot doubt that purchases of Live Stock have been made and paid for to a large Amount by the Applicant, though they are by no means satisfied that the Capital wherewith they were made was his own, nor has it appeared or been shown in any way that Payments on these accounts have been made in *Sovreigns*, not that the absence of such proof, they are aware, should in itself influence their Opinions.

The Board, being anxious not to prejudice without good grounds any application for Land, considered that some light might be thrown upon the actual fact of the Sovreigns being brought to this Country by enquiring of the landing waiter, if he searched the Baggage of Mr. Connor, when he disembarked from the Ship. Mr. Hutchinson observes he perfectly recollects the circumstance

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Report by land board on application by M. Connor for primary land grant.

of Mr. Connor landing; but at that time it was not usual as at present, to search minutely the Private property of individuals, he is not therefore afforded the means of speaking possitively on the subject, but he has no reason to beleive that any such property was included in the Baggage landed by Mr. Connor.

Under a careful reveiw of this case and in the absence of that satisfactory proof required by the Regulations, the Board cannot divest themselves of the impression that the Capital in the Schedule is not the actual property of Mr. Connor, nor are they satisfied that it has been imported into the Colony as stated.

It remains therefore for His Excellency the Governor to determine how far Mr. M. Connor may be considered as having established a claim to a Grant of Land.

WM. DUMARESQ.
JAMES BUSBY.

[Enclosure No. 3.]

Schedule of capital of M. Connor.

SCHEDULE of Capital belonging to Mr. Michl. Connor of Sydney, immediately available to Agricultural purposes.

Receipts shewn of Purchases made from Mr. Driver.	10 Pure Merino Rams at £ 6 each 3 Mares in Foal „ £60 Do 1 Do with Do „ £60 „				
Receipt shewn of Purchase from Mr. Crawford.	2 Mares in Foal „ £65 „ 20 Cows „ £ 8 „				
Receipt shown as purchased from Dr. Redfern.	72 Cows		500	0	0
Receipt shewn as purchased from Owen Boylen.	1 Mare in Foal, with a Foal by her side and a two year old Colt.		102	10	0
Receipt shewn as purchased from Mr. Payne — paid by an order on his brother, Mr. J. Connor.	300 Sheep	at 30s. each	450	0	0
Cash lodged in the Bank of Australia as per Cashier's Receipt			450	13	1½
			£2,093	3	1½

[Enclosure No. 4.]

DEPOSITION BY M. CONNOR.

Land Board, 21st Feby., 1828.

Deposition by M. Connor.

I ARRIVED in this Colony by the Ship Medway, Captn. Wright, in October last, having, on the suggestion of my brother, Mr. Connor, late Supt. of Hyde Park Barracks, emigrated to this Colony with the intention of becoming a settler and employing the Capital left

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me by my father in Agricultural and Grazing pursuits, for which purpose I obtained the letter now presented to the Board from Mr. Hay.

Deposition by M. Connor.

I am now twenty years of age; the earlier part of my life was spent entirely in the Country, my father having been an Extensive Grazier and Farmer at Birr in the King's County, Ireland (on the Lands of the Earl of Ross). My father died about seven Years ago, leaving a Wife and seven Children; My Mother, with one of her sons and two daughters, is still in the occupation of the Farm which was rented by my father; when I was fifteen years of age, I was apprenticed to Mess. St. George and Greig and Arthur Powell, Merchants and Money Brokers in Dublin, with whom I continued for four years, till, from the bad state of my health, and on the recommendation of my brother, I determined to emigrate to this Colony. Besides his interest in the farm, my father left considerable property in houses in Dublin, and a large Sum of Money in the Bank. On my leaving Dublin, the Merchants, to whom I was apprenticed, gave me up my indentures, and my Guardians paid me over the Sum of £2,000, which was my share of the property left by my father, which I brought to this Colony in Sovreigns, which were deposited in the hands of my brother in Castlereagh Street on my arrival here.

It is my full intention to reside upon any land, which it may please His Excellency to grant me, and, with the assistance of a person with whom I arranged prior to my leaving Ireland (and who is particularly well versed in the Management of Stock), manage in person my farming concerns. I have rented for the present a Farm (Mr. Tindall's) on the south Creek of 700 acres, on which I am residing, and where such stock, as I have not arranged with the parties from whom I have purchased them to keep for me, are now Pasturing.

I am perfectly unknown to any one in this Country except my brother, and Dr. Redfern, with whom I have had transactions since my arrival, and I must beg to refer the Board for such further information they may require to them.

MICHAEL CONNOR.

[Enclosure No. 5.]

DEPOSITION BY W. REDFERN.

Land Board, 22nd Feby., 1828.

Deposition by W. Redfern.

DR. REDFERN, having appeared before the Board this day as the referee of Mr. Michael Connor, states as follows:—

I have no particular knowledge of Mr. Michl. Connor further than having some transactions with him lately in the sale of some Cattle; having however an acquaintance with his brother, during the time he was Supt. of the Prisoners' Barracks, I did not in fact bargain with Mr. Michael for the sale of the Cattle, preferring to let the transaction pass through the brother Mr. John Connor's hands. The result of the business was the sale to Mr. Michael Connor of 72 Cows, for which I received his Bill upon his Brother, Mr. John Connor, and subsequently the money; although the transaction was principally conducted through the Agency of Mr. John Connor, I was always of opinion and continue so that the purchase was actually made for the brother Mr. Michael Connor, who from his youth and little experience in the Colony naturally availed himself of his Brother's experience.

1828. 5 Aug. Deposition by W. Redfern.

I am not aware of any purchases he has made from other individuals; I have merely heard that he was making purchases and that he had brought some money with him into the Colony.

I guaranteed the safety of the Cattle sold by me to be delivered to him at such time that he should receive his Grant of Land.

WM. REDFERN.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 21, per ship Royal Sovereign.)

6 Aug. Drawback and reduction of duty on brandy.

Sir, Downing Street, 6th August, 1828.

Mr. Gregory Blaxland having addressed a memorial to the Secretary of State on the subject of the heavy duties on Foreign Brandies imported into New South Wales, in which he solicited that a drawback of duty on the quantity of Brandy actually used in the manufacture of Wine in the Colony might be allowed, in like manner as at the Cape of Good Hope, and this memorial having been referred for the consideration of the Lords of the Committee of Privy Council for Trade, I have the honor to transmit to you the copy of a letter, received in reply from the Secretary to that Board, by which you will observe that their Lordships see no objection to the Manufacturers of Wine in New South Wales being placed on the same footing as those at the Cape, as far as regards the receiving a drawback on the Brandy used in the manufacture of that article, and that their Lordships have likewise recommended to the Lords Commissioners of the Treasury a reduction of the duty on Brandies imported into the Colony. I am, &c.,

G. MURRAY.

[Enclosure.]

MR. T. LACK TO UNDER SECRETARY TWISS.

Office of Committee of Privy Council for Trade,

Sir, Whitehall, 2nd July, 1828.

The Lords of the Committee of Privy Council for Trade having had under their consideration the Copies of two letters from Mr. Gregory Blaxland (transmitted in Lord Leveson Gower's letter of the 22nd April last), respecting the heavy Duties on Foreign Brandies, imported into New South Wales, and requesting that a drawback of Duty on the quantity of Brandy, which may be actually used in the Manufacture of Wine in that Colony, may be allowed in like manner as at the Cape of Good Hope, I am directed to acquaint you for the information of Secretary Sir George Murray that their Lordships see no objection to the Manufacturers of Wine in New South Wales being placed on the same footing as those at the Cape of Good Hope, so far as regards the receiving a Drawback in the Brandy used by them in the manufacture of Wine.

With respect to the Duty on Brandy imported into New South Wales, I am to add that the Lords of this Committee have already recommended to the Lords of His Majesty's Treasury a Reduction of that Duty. 1828. 6 Aug.

I am, &c.,
THOMAS LACK.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 96, per ship Boddington.)

Sir, Government House, 6th August, 1828.

I had the honor to receive, on the 5th of last Month, Your Despatch No. 1 of the 17th of January on the subject of the "Promissary Notes," which I had authorised being issued at a time when there was a Scarcity of Specie in the Colony; and I beg, Sir, to state that the orders conveyed in Your Despatch had been anticipated, as you will perceive by the accompanying Copy of the Proceedings of a Board which I assembled in the Month of June, for the purpose of cancelling the Notes in question. Despatch acknowledged.

I have, &c.,
RA. DARLING.

[Enclosure.]

PROCEEDINGS of a Board, appointed by His Excellency Lt. General Ralph Darling, Commanding the Forces, for the purpose of verifying the Commissariat Notes in the Military Chest, and seeing them destroyed, of taking a Minute of the Particulars of those still in Circulation, in order that they may be called in; and also of destroying the Impressions of the same Notes in His Excellency's possession and the Plates from which they were struck. Report by board on destruction of commissariat notes.

President: Lt. Colonel Shadforth, Commanding 57th Regt.; Members: Asst. Comsy. Genl. W. Lithgow; Depy. do S. Ryrie.

Sydney, 17th June, 1828.

THE Board, having assembled this day, proceeded to verify in the presence of Deputy Commissary General Wemyss the Commissariat Notes in the Military Chest under the charge of Deputy Commissary General Laidley; which they found to be as follows:—

491 Notes of Ten Pounds Sterling each making ..	£4,910
250 Notes of Five Pounds Stg. each amounting to	1,250
	£6,160

making the Total amount of Notes, received from the Military Chest, Six thousand one hundred and sixty Pounds Sterling.

The Ten Pound Notes above mentioned, they found to be all dated 20th September, 1826, and numbered in regular successive series of integral numbers from Number One to Five Hundred, both inclusive, with the exception of Nos. 276, 277, 361, 372, 373, 374, 375, 376, and 378, which they found wanting to complete the series from One to Five hundred, and which they therefore conclude are still in circulation.

1828. 6 Aug. The tenor of these Notes, and the Signatures to the same, were as follows:—

Report by board on destruction of commissariat notes.

No. NEW SOUTH WALES. No.

By Command of His Excellency Lieutenant General Ralph Darling. Governor in Chief, etc., etc., etc.

No. Ten Pounds Sterling.

On Demand I promise to Pay S. Ryrie or Bearer Ten Pounds. Sterling. "This Note will be received in Exchange for Bills on His Majesty's Treasury on the same terms as British Silver Money."

Commissariat Office.

Sydney, 20th day of September, 1826.

"W. WEMYSS, Dep. Comsy. Genl."

Registered:—WM. LITHGOW, Asst. Comsy. Genl., Acct. Dept.

"Approved,"
RA. DARLING.

The Five Pound Notes were all dated 11th October, 1826, and numbered successively from Number One to Two hundred and fifty, both inclusive, forming a complete Series of regular integral Numbers to that extent. They all bore the same signatures as the Ten Pound Notes, and were exactly of the same tenor, with the exception that the Words "Five Pounds" were impressed on the Five Pound Notes, in the situations where the Words "Ten Pounds" had been struck on the Notes of Ten Pounds.

The Board, having, assisted by Deputy Commissary General Wemyss, carefully and singly verified the Numbers, Dates and Signatures of the whole of these Four hundred and ninety one Notes of Ten Pounds, and Two hundred and fifty Notes of Five Pounds sterling each, and found them to be genuine, committed them successively to the flames, and saw them totally Burnt and Destroyed.

Two of the Members of the Board, Asst. Commissary General Lithgow and Deputy Assistant Commissary General Ryrie, proceeded next to wait upon His Excellency the Governor, and received from his Cabinet, where they had been carefully deposited under Seal, the Two Copper Plates from which the Ten Pound and Five Pound Notes, submitted to the Board's Inspection had been struck, together with Seven hundred and fifty additional Impressions of Five Pound Notes, which had not been put in circulation.

The Board then proceeded, in the presence of Deputy Commissary General Wemyss, to ascertain the particulars of the Impressions alluded to.

They found that they corresponded exactly in the Sum, Tenor, and Date, with the Five Pound Notes which they had seen Destroyed, and that they were regularly numbered in successive series from Number Two hundred and fifty one to One thousand both inclusive.

The Impressions, Numbers Two hundred and fifty one to Five hundred and fifty, and Numbers Nine hundred and one to Nine

1828.
6 Aug.

Report by board on destruction of commissariat notes.

hundred and fifty, in all Three hundred and fifty, were competed by the same signatures as the Five Pound Notes destroyed; the remainder, Vizt., Numbers Five hundred and fifty one to One thousand, both inclusive, in all Four hundred, wanted the signature of His Excellency the Governor, but were signed by Deputy Commissary General Wemyss, and, as Registered, by Assistant Commissary General Lithgow.

The Board, having carefully verified the Numbers, dates and signatures of these Seven hundred and fifty Impressions of Five Pound Notes, threw them successively into the Fire, and saw them Totally burnt and consumed.

The Board next proceeded to the Foundry in the Lumber Yard, with the Two Engraved Copper Plates, from which the Impressions of the Ten Pound and Five Pound Notes above described had evidently been struck, and caused the Engraving thereon to be completely defaced, the Two Plates to be melted down.

T. Shadforth, Lt. Colonel, President.
Wm. Lithgow, A.C.E.
S. Ryrie, D.A.C.E.

Sir George Murray to Governor Darling.
(Despatch No. 22, per ship Royal Sovereign.)

Sir, Downing Street, 7th August, 1828. 7 Aug.

Instructions re salary of W. Dumaresq as civil engineer.

I have received your despatch No. 128 of the 21st of December last, accompanied by the copy of a letter from Captain Dumaresq, shewing the amount of the salary and allowances received by him as Civil Engineer, previously to his being placed upon Half-pay, and requesting that, while he continues to act in that capacity, his remuneration may be made equal to its former amount.

My Predecessor, in his despatch of the 28th of April last, appears, upon your recommendation, to have authorised an allowance at the rate of 20s. a day to be granted to Captain Dumaresq for his services in the Department of the Civil Engineer, which was nominally placed under the charge of Mr. Kinghorne.

From the opinion which you have subsequently found occasion to express concerning the inefficiency of the person last mentioned, and from the contents of your present despatch, I am led to suppose that Captain Dumaresq has again undertaken the exclusive charge of this Department, until a proper person shall be sent out from this Country to relieve him.

If so, you will consider yourself at liberty to make an issue to him at the rate of £700 a year (which is now the fixed Salary of the Civil Engineer) from the time when he relieved Mr. Kinghorne from the charge of these duties, until the date of the embarkation of Mr. Wilson from this Country as Captain Dumaresq's Successor; after which date, the issue to Captain Dumaresq must be limited to one half of the Civil Engineer's

1828. 7 Aug. Instructions *re* salary of W. Dumaresq as civil engineer.

Salary, that is to say, he will then be paid at the rate of £350 per annum, Mr. Wilson being entitled to the other half according to the arrangements communicated to you in my despatch of the 15th July, 1828.

From what I have thus authorised you to issue to Captain Dumaresq, you will however deduct any sums which may have been paid to other persons for discharging any of the duties of the Office of Civil Engineer, during the time it has been held by Captain Dumaresq.

I am, &c.,
G. Murray.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 97, per ship Boddington.)

Sir, Government House, 7th August, 1828.

Compensation awarded for recapture of brig *Wellington*.

I do myself the honor to acknowledge the receipt of your Despatch No. 16, dated the 17th of February, desiring I would report my opinion with regard to the justness of the further claim to remuneration, which has been sent up on the part of the Owner, the Master and Crew of the Ship Sisters, on Account of the re-capture of the Brig Wellington; and I beg in consequence to state that the Sum of £1,800, which was awarded by the Gentlemen appointed to determine what Remuneration it would be proper to grant in this case, was considered sufficient for every purpose.

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.
(Despatch No. 98, per ship Boddington.)

8 Aug. Appointment of landing waiter and pilot at Newcastle.

Sir, Government House, 8th August, 1828.

I have the honor to acquaint you that the Person, appointed to the Situation of Landing Waiter at Newcastle as reported in my Despatch No. 70 of the 16th of April last, having resigned that appointment, and it having become necessary at the same time to make provision for the duties of Pilot at that Port, in consequence of the Person hitherto employed being unequal from Age and Infirmities to continue to discharge the duty; I have availed Myself of the opportunity of uniting the two Employments of Landing Waiter and Pilot in the person of a Mr. Fisk, who is represented to me as a respectable and competent Man, until you shall be pleased to make permanent provision for the duties pointed out.

I do Myself the honor, Sir, to transmit for your information Copy of the Report of a Board, on which the above arrangement

is founded; the Board having been further instructed to consider what allowance it might be proper to grant to Eckford, the late Pilot, as a Pension on his retirement. 1828, 8 Aug.

I have, Sir, in consequence of the recommendation of the Board, authorised his receiving 9d. per diem, until your pleasure shall be known and I take the opportunity of pointing out that the saving of Expense by the present arrangement will be as follows, "Vizt.":— Pension granted to retiring pilot.

Fifty Pounds a Year in the Salary of Landing Waiter, who now receives only £200 a Year, besides the Maintenance of four Boat Men and the provision and Wear and tear of Boats for performing the necessary Duties afloat of the Landing Waiter and Pilot. Economies effected.

I have, &c.,
RA. DARLING.

[Enclosure.]

PROCEEDINGS of a Board appointed, by Letter from the Colonial Secretary of the 7th July, 1828, for the purpose of considering and reporting what it would be reasonable to grant to Mr. Eckford in the shape of retired Allowance for his Services as Pilot at Newcastle, taking into consideration that himself and Family have received Rations during the whole period of his employment, and that he has been furnished with a Boat and Men belonging to Government; also what would be the most convenient arrangement for the performance of the Duties of Pilot there, so as to relieve the Government as much as possible from the Expense, whether a Boat is not necessary to the performance of the Duty of Landing Waiter, and whether an arrangement could not be adopted to provide for the two Duties. Proceedings of board *re* pension for Eckford.

1. The Board having met proceeded to take into consideration the Amount of Retired Allowance, which it may be proper to allow Mr. Eckford.

2. It appears that Mr. Eckford has served as Pilot and performed other Duties connected with the Port at Newcastle for about Twelve Years, having received, as remuneration from Government, Rations, or an Allowance in lieu thereof, for himself, his Wife and four Children, and been provided with Lodging in a Government Building.

He is now Sixty Years of Age, and has a Family consisting of a Wife and Seven Children, who, as appears from Captain Allman's testimonial in his favour, have been creditably brought up.

Taking into consideration all the circumstances of his case, and his Age and length of Service, the Board are of opinion that it would be reasonable that he should receive a Pension of Nine pence per Diem, which they estimate to be nearly one fourth of the Government remuneration, which he formerly derived from his Situation as Pilot.

3. In proceeding to consider what would be the most advisable arrangement for the performance of the Duty of Pilot without Expense to Government, the Board endeavoured first to estimate, from the Documents submitted to them, to what extent the Produce

1828.
8 Aug.

Proceedings of board *re* offices of pilot and landing waiter at Newcastle.

of the Rates of Pilotage, established by General Order of 27th June, 1812, might be rendered available to meet the expense of maintaining a Pilot for the performance of the Duty.

4. They find, from a Return furnished by the Superintendent of Police, that the Number of Vessels which entered and quitted the Port of Newcastle from 20th June to 20th October, 1827, a Period of Four Months, amounted to Seventy one, measuring together about 2,080 Tons. The Number of Vessels and their Tonnage, entering and leaving the Port in the course of a Year, may therefore be estimated at 213 Vessels, and their aggregate Tonnage at about 6,240 Tons.

5. The Rates of Pilotage chargeable at Newcastle according to the General Order, alluded to, are on Vessels—

Under 50 Tons Register	£0 10 0
of 50 and under 100	1 0 0
of 100 „ „ 150	1 10 0
of 150 and upwards for each 50 Tons	1 0 0

6. The Vessels frequenting the Port of Newcastle are generally under 50 Tons Burthen. The exceptions are so few that it will not materially affect the general Amount to assume them as all under this Tonnage.

7. On the foregoing estimated Annual Number of Vessels (213), the established Pilotage chargeable, reckoning them, for the reason stated, as all under 50 Tons, will Amount to £106 10s.

8. The Payment of Pilotage at Newcastle is, it appears, now generally resisted, and has in few instances been received for some time past; but, as the Collection of the Rates authorised by the General Order, alluded to, has been legalised by the Act of Council No. 20* of 1st November, 1825, there does not appear to be any well grounded objection why the payment of the same should not be enforced, by which we are of opinion that at least £100 per Annum might be realised.

9. The Board would, therefore, propose that the established Rates of Pilotage should, in future, be regularly collected by the Pilot, who may be appointed for the Duty, and appropriated by him to defray the Expense of keeping a Pilot Boat and Boat's Crew of at least four Men, which he should be bound to provide, an Expense which, it appears to the Board, the Pilotage would be adequate to cover, particularly as the Crew, when not required for Piloting Vessels, might usefully for the Pilot be employed for his private benefit in Fishing or other Service, which might not interfere with their being always in readiness to attend on Vessels entering or leaving the Port, or be otherwise incompatible with the Duties of his Situation.

10. As the Board are, however, of opinion that the Pilotage would not be more than adequate to the expense of providing and maintaining a Pilot Boat and Boat's Crew, it will still be requisite that provision should be made for the Remuneration of the Services of a competent Individual as Pilot.

11. The most elegible and economical Arrangement, which occurs to the Board for providing for this necessary Expense, would, they are of opinion, be to assign the Duties of Landing Waiter and Pilot to the same Individual, which they think, in the present limited state of the Commerce of the Port of Newcastle, one Individual would be competent to execute. By this Arrangement, not

* Note 91.

1828. 8 Aug.

only would the expense of the Salary of one of these Situations be saved, but also that of providing a Separate Boat and Boat's Crew for the Landing Waiter, which would otherwise be necessary.

Proceedings of board *re* offices of pilot and landing waiter at Newcastle.

12. Should this Suggestion be adopted, the Board would propose that a fit Person should be selected for the Duties of both Situations, and that he should be allowed, in addition to the Established Rates of Pilotage which he should be authorised to collect and receive, a Salary of £200 per Annum, or such other Rate as might be deemed reasonable; and that he should be bound to provide and maintain at his own expense, a sufficient Pilot Boat, and Crew of at least Four Men without any further remuneration than that above mentioned, for discharging the Duties not only of Pilot but also of Landing Waiter.

The Board would further recommend that the Person appointed to the Situation should be directed to furnish, in the same manner as the Pilots for the Harbour of Sydney, an Attested Quarterly Statement of all Pilotage collected by him in each Quarter for the information of Government; and that he should be restricted from Trading or undertaking the Landing or Shipping of Goods at the Port for Private Emolument.

13. Before closing their Report, the Board beg to remark that it appears to them that Twopence per Ton of Register Measurement for Piloting a Vessel either in or out of the Port at Newcastle would be a more elegible mode of charging the Pilotage, than according to the present Scale.

This Rate, they find, would yield, as nearly as may be, the same Amount as the Rates of the Scale now in force, while it would possess the advantage of a more equitable apportionment according to the Tonnage of each Vessel, and under the production of the Register by every Vessel to be indispensable; a circumstance which would serve to produce and enforce regularity in the Registering of the Vessels employed in the Trade of the Port.

Wm. Lithgow, Audr.
Wm. Dumaresq, Civ. Engr.
Jno. Nicholson, Master Attendant.

Sydney, 14th July, 1828.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 99, per ship Boddington; acknowledged by Sir George Murray, 15th April, 1829.)

9 Aug.

Sir, Government House, 9th August, 1828.

Despatch acknowledged.

I have had the honor to receive Your Despatch No. 17, dated the 3d of March last, apprising me that the Honble. Captain Rous had made Application for an Allowance on account of my entertainment on board His Majesty's Ship Rainbow during my passage to Moreton Bay, and pointing out that I shall not be justified in availing Myself of such mode of conveyance, except under circumstances of the most pressing emergency. In reply to which, I beg, Sir, to assure you it did not occur to me that the Government would be subjected to any Expense on that occasion, not, I will admit, that it would have prevented my

1828. 9 Aug.

proceeding had I been aware of it, conceiving as I did that I was discharging a very neeessary and a very important duty in the inspection of Moreton Bay and Port Macquarie.

Particulars *re* visit of R. Darling to Moreton bay.

I beg Sir you will believe that my Visit to the Penal Settlements was not a matter either of ceremony or personal gratification. Captain Rous informed me that the Archdeacon, who it appears is authorised to make use of His Majesty's Ships in the performance of his duty, had required him to proceed to Port Macquarie and Moreton Bay, and he wished to know whether I was desirous of Visiting these Settlements. I availed myself of the opportunity, not having previously inspected them, and my whole Suite consisted of but One Aid de Camp and one Servant.

Expenditure on passage in private vessel.

My repeated reports of the very Serious Expense, which is occasioned by the Hire of Vessels to assist in supplying the Settlements, will have apprised you that I could not have made use of any of the Government Vessels, without subjecting the Government to a much greater Expense than my entertainment on board the Rainbow could possibly have amounted to (from £200 to *£300* having been frequently paid for the hire of a Vessel), and my availing Myself of any casual opportunity by a Government Vessel, Prisoners being always forwarded on those occasions, would not I conceive have been consistent with my Situation or consonant to the wishes of His Majesty's Government.

Objections to passage on government vessel.

Discomforts in inspection of detached settlements.

As far as I am personally concerned, I cannot regret that so little importance is attached to the inspection of the detached Settlements, as it is a duty which must always be attended with great fatigue and suffering on this coast, and from which even the kindness and attention of Captain Rous and the comforts of His Majesty's Ship Rainbow were not sufficient to exempt me.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 100. per ship Boddington; acknowledged by Sir George Murray. 16th April. 1829.)

11 Aug.

Sir, Government House, 11th August, 1828.

Reports received from Melville island and Fort Wellington.

I have the honor to acquaint you, in reference to my Despatch No. 23 dated 25th February last, that I have received recent accounts from Melville Island and Fort Wellington in Raffle's Bay, by the arrival at this place of the late Commandants of both these Settlements.

I informed you, in my Despatch above referred to, that I had appointed an Officer to succeed Major Campbell at Melville

1828. 11 Aug.

Island. I made provision at the same time for the relief of Captain Smyth at Fort Wellington, in the event of his Health rendering it necessary for him to resign his command. He has I am sorry to say, as I had anticipated, been obliged to return to Sydney.

Relief of commandants.

At the time Captain Smyth's leaving Fort Wellington, the people had in some degree recovered, and the Settlement was altogether in a much better state than when the former Accounts were transmitted. He found it necessary, however, to bring several of the Men with him who were unfit for duty at that place. I have just now sent others in their room, and find it will be requisite to forward a few by every opportunity to replace such as it may be necessary to return to Head Quarters.

Conditions at Fort Wellington.

I avail Myself of the opportunity of enclosing for Your information an Extract from a Letter of Captain Smyth's, mentioning the arrival of some Proas from Macassar for the purpose of Fishing. These people appear to be of a very low Class; but their account of the Settlement, and the disposition manifested by Captain Smyth to cultivate a good understanding with them, may induce others of a better description to visit Fort Wellington.

Arrival of proas at Fort Wellington.

I have only, Sir, to add that nothing can be more unsatisfactory than Major Campbell's account of Melville Island. He has described the place to me personally as the most wretched, without possessing any one advantage, either political or otherwise. I have already stated that the maintenance of these Settlements is a very heavy Expense to the Government. They require two Vessels, capable of bringing supplies of Cattle from Timor, to be permanently attached to them, while three tolerably large Vessels are also necessary to convey Supplies and keep up the communication from hence, a period of four Months being in general exhausted before their return to this Port.

Adverse report from Melville island.

I do Myself the honor to forward Copy of a Report of Captain Stirling's, relative to Fort Wellington, which he transmitted to me from India and I received not long since.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

[*This was an extract from a letter from H. G. Smyth to colonial secretary Macleay, dated 20th March, 1828: see volume in series III.*]

[Enclosure No. 2.]

[*This was a report of the proceedings on H.M. ship Success; see page 811 et seq., volume V, series III.*]

1828. 12 Aug.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 101, per ship Boddington.)

Sir, Government House, 12th August, 1828.

Expenditure on royal veteran companies.

In acknowledging the receipt of Your Despatch of the 10th of February No. 14, communicating a New arrangement for providing for the Expense of the Royal Veteran Companies raised for the service of these Colonies, I cannot perhaps furnish the information required in a more satisfactory manner than by submitting to you the enclosed Copy of a Memorandum drawn up by the Auditor, being the result of a communication I had with him on the subject to which your Despatch relates.

Expenses previously discharged by colonial revenue.

It appears that the Colonial Revenue has been charged with the Expences of the Veteran Companies to the end of last Year, and the Treasurer having, in consequence of this and other Expences which are considered chargeable to the Home Government, been obliged to borrow Money from the Commissariat, the Local Government cannot under the New Arrangement be required to pay into the Military Chest any thing on Account of the Veteran Companies for the Year 1827.

The Colonial Treasury being now relieved from this charge by the Arrangement notified in my Despatch of the 8th of January last No. 6, by which I appear to have anticipated in some degree the measure which forms the subject of yours immediately under consideration, it will only further be necessary to see that a Sum equal to what is provided by Parliament for the Maintenance of the Veteran Companies, is transferred from the Colonial Treasury to the Military Chest, and the necessary directions shall be given as soon as I am apprised of the Amount.

Adjustments to be made.

Increase in customs and internal revenue.

Although it appears by the Auditor's Statement that the Customs and Internal Revenue have been unusually productive during the last half year, it would be impossible to depend on their being any surplus Revenue at the end of the present Year, nor would it be prudent to calculate on the Revenue continuing at the Amount now stated. But, in a short time, these points will be ascertained; and, should the present system, I mean the distinct separation of the Expenditure on account of the Colonial Government and the Convict Establishments which has now been in operation since the commencement of the present Year, be found to Work as intended, the probable expense of each may be the more easily determined. It must however be kept in mind that the progress of a Colony of this description will naturally and rapidly lead to a considerable encrease of Expense. The Inhabitants are calling out and loudly too, as I have already mentioned, for Additional Establishments in the Interior, and

Probability of accurate estimates.

Probable increase in expenditure.

1828.
12 Aug.

the more remote Districts, considering, as the Number of Settlers encrease and the Colony advances, that a more extensive Police is necessary including Benches of Magistrates, with the indispensable Appendages of Clerks, Constables, etc., besides the Buildings requisite for their accommodation and the duties connected with their Offices. It is therefore evident that it is no easy task to conform to the injunctions of Government and comply with the wishes of the Inhabitants.

Additional establishments necessary.

I have only to repeat here that every means has been used to relieve His Majesty's Treasury by transferring to the Commissariat the proceeds of the Sales of the Government Stock and the Produce of the Agricultural and other Government Establishments, and I persuade Myself that these Arrangements, being now placed on the most clear and simple footing, will ultimately prove beneficial and satisfactory. I have, &c.,

Relief for treasury.

RA. DARLING.

[Enclosure.]

MEMORANDUM.

IT appears, from the Despatch of The Right Honorable The Secretary of State dated the 10th February last, to be intended that, whatever Sum is provided by Parliament to meet the charge of the Veteran Companies, a Sum at least equal in amount should be paid out of the Colonial Revenue into the Military Chest, and that any further surplus, not required for Colonial Purposes, should also be transferred to the Military Chest, in aid of the charge of the Military Defence of the Colony.

Expenditure on royal veteran companies.

It will be very easy to comply with the Instructions, as to paying into the Military Chest a Sum equal to the charge, which Parliament may authorise to be provided for the support of the Royal Veteran Companies, as soon as this amount is communicated; as well as from time to time to direct the payment of any further clear Surplus, not likely to be required, transmitting at the end of every Year a Statement of the Sums so paid over.

IN regard to the estimated surplus of the Year which has expired (1827) with the amount of which the Secretary of State desires to be made acquainted at as early a period as possible, It may be sufficient to inform him that, the Colonial Treasury having been at the charge during that Year of the Expenses of the Pay of the Veteran Companies, and of the whole of those of the Police, Gaol and Master Attendants Establishments, which, from the commencement of the present Year, have been defrayed from the Military Chest, no Surplus of Revenue accrued; but, on the contrary, that it was found necessary to direct a Loan of £12,292 7s. 11d. to be made by the Deputy Commissary General to the Colonial Treasurer in aid of the Colonial Revenue of the Year in question; the Revenues of the Colony having been found inadequate to meet the charge of those Establishments, the major portion of the Expenses of which originate in the appropriation of this Colony as a place of punishment of offenders sent from the Mother Country, and at the same time to defray the other Expenses of the Civil Government.

Deficiency of revenue for year 1827.

Loan from commissariat in aid of revenue.

1828. 12 Aug.

Anticipated surplus revenue.

The Treasury being now, however, relieved of the charge of the Establishments above mentioned, it is probable that a Surplus Revenue will be obtained, more particularly as the last Six Months has yielded a larger Revenue than any former period of the same duration in the Annals of the Colony, the produce having been—

In the Customs	£33,841	7	5½
In the Internal Revenue	13,494	12	3
Revenue of the Half Year	£47,335	19	8½

or at the rate of £94,671 19s. 5d. per Annum, so that, even allowing for the falling off which may be expected in the Current half Year, if no occasion for Extraordinary Disbursements occur, a Surplus equal or nearly so to the Expenses of the Veteran Companies may be anticipated before the close of the present Year.

Sydney, 15th July, 1828. WM. LITHGOW.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 102, per ship Boddington; acknowledged by Sir George Murray, 16th April, 1829.)

13 Aug.

Sir, Government House, 13th August, 1828.

Proposal for water supply for Sydney by private company.

I have the honor to acknowledge the receipt of Your Despatch No. 8 dated the 30th of January last, respecting the arrangements which had been made for introducing Water into the Town of Sydney, and directing that the undertaking should be placed in the hands of a private Company under certain restrictions. I beg, Sir, to acquaint you in reply that the present Moment appears so unfavorable to this measure from the want of means of the Inhabitants in general that I have deemed it prudent not to agitate the question just now. But, considering the proposed Measure extremely desirable if competent Persons can be found to engage in it, I shall not delay one Moment longer than is necessary to carry Your Orders into effect.

Distress caused by drought.

I regret to add, in reference to my Despatch of the 20th of June last No. 85, that the Country still continues to suffer materially from the want of rain. It is hoped, however, that a sufficient quantity has fallen, since the date of my last communication on this subject, to prevent the failure of the next Crop; but the loss of Cattle, large numbers having died from the Want of Food, occasioned by the long and severe Drought, together with the Scarcity of Grain, have subjected the Settlers and Inhabitants generally to much distress.

Want of water in Sydney.

In the Town of Sydney the want of Water, even for the common Domestic purposes was severely felt. But, as every possible exertion was made to alleviate the distress by sinking Wells in different parts of the Town, which was effected by the local Government, I did not consider it necessary to trouble you with a Special Report at the time. The event is however sufficient to

point out how important it is to the Health and even Safety of the Inhabitants that Water should be introduced into Sydney as abundantly and speedily as circumstances will permit. I am consequently stimulating the exertions of the Men employed under the Mineral Surveyor by every possible means, and I am very glad to be enabled to inform you that considerable progress has been made. I shall however relieve the local Government from the undertaking the first moment I can do so with any probability of success. I have, &c.,

1828. 13 Aug.

Necessity for water supply for Sydney.

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 103. per ship Boddington; acknowledged by Sir George Murray, 26th May, 1829.)

Sir, Government House, 14th August, 1828.

14 Aug.

I have the honor to acquaint you in reference to the various communications I have made relative to the Establishments necessary for the Department of "Roads and Bridges," that, in consequence of the resignation of Lieutenants Wilford and Hughes, I have been under the necessity of appointing Major Lockyer, lately retired from the Military Service, to the Situation of Principal Surveyor. I have authorised Major Lockyer's receiving a Salary of £600 a year, subject to Your Approbation. I endeavoured to induce him to undertake the duty at a lower rate, but he declined the Appointment even with a Salary of £550.

Appointment of E. Lockyer as surveyor of roads and bridges.

The Resignation of the Principal Surveyorship by Lieuts. Wilford and Hughes, Subalterns of the Staff Corps, is some proof that the Salary of £600 a Year, which includes every Allowance (Horses, House Rent, etc.), is not more than sufficient to meet the Expenses of the Situation. These Officers were in the receipt of £320 a Year from their Regimental Situation and were allowed in addition £182 10s. as Surveyor, and £91 5s. a Year for two Horses, making a Gross Sum of £593 5s. Still they preferred returning to their duties as Subalterns.

Problem of salaries.

I do myself the honor to add that the necessity of the frequent absence of the Surveyor from the Head Quarters of the Department (which from the advantageous situation of Parramatta has been fixed at that place) has obliged me to appoint another Assistant to attend to the Parties which are employed on the Roads in the neighbourhood of Parramatta, whence all the Roads branch into the interior of the Country, and to carry on the general business of the Office, when the Principal Surveyor is absent, visiting the detached Stations. I have, &c.,

Appointment of assistant-surveyor.

RA. DARLING.

1828.
15 Aug.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 104, per ship Boddington; acknowledged by Sir George Murray, 16th April, 1829.)

Sir, Government House, 15th August, 1828.

Claim of J. T. Morisset for forage allowance.

I have the honor to report to you, with reference to my Despatch No. 108 dated 23d October, 1827, relative to the employment of Lieut. Colonel Morisset as Principal Superintendent of Police, that he has claimed an Allowance in lieu of Forage for a Second Horse, which I have felt it necessary to grant, as he would have been entitled to two Horses as Commandant of Norfolk Island.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Boddington.)

Sir, Sydney, 15th August, 1828.

Review on pamphlet by Revd. S. Marsden.

Having lately forwarded to the Secretary of State and Mr. Stanley, Copies of the Reverend Samuel Marsden's publication on the subject of the investigation, which Earl Bathurst was pleased to direct should take place into certain matters alleged against Doctor Douglass, I have now to request you will take an opportunity of communicating to Mr. Secretary Huskisson, the accompanying Review published in the Colony and the Sydney Gazette of the 11th inst. which contain Articles* on the above subject.

I have, &c.,
RA. DARLING.

[Enclosure.]

[*This was the review published in the Australian Quarterly journal* No. 3.*]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 105, per ship Boddington; acknowledged by Sir George Murray, 23rd April, 1829.)

16 Aug.

Sir, Government House, 16th August, 1828.

Refusal by G. Frankland of office as deputy surveyor-general.

Having informed you, in my Despatch No. 81 dated 29th of May, 1828, that I had offered the Appointment of Deputy Surveyor General to Mr. Frankland, I do myself the honor to acquaint you that I have received a Letter from that Gentleman declining the Appointment.

Nomination of R. Hoddle.

I beg further to state that I have in consequence nominated Mr. Hoddle, the Senior Assistant Surveyor, to carry on the duty of Deputy Surveyor General until you shall be pleased to make some permanent provision for that Office. I have adopted this

* Note 92.

1828.
16 Aug.

course as a means of avoiding the inconvenience, which is occasioned by Persons, when not confirmed, being obliged to resume their former appointments.

Temporary appointments in survey office.

I do myself the honor to transmit for your information the Copy of a Minute notifying Mr. Hoddle's and other temporary appointments, which I have been under the necessity of making in order to render the Department more efficient. Mess. Knapp and Docker both brought out letters of Introduction from Mr. Hay, and the former, who has for some time been employed as Assistant Surveyor on the Salary of Draughtsmen (£150), intimates his intention of retiring from the Department, unless he was placed in the situation of Assistant Surveyor.

Salary of H. White;

Mr. White, who has been rated as a Clerk in the Office at £60 a year, has for some time past been employed as Draftsman, and I have augmented his Salary to £100 a Year.

and of H. Halloran.

Mr. Halloran has been employed as probationary Clerk at a Salary of £60, and I have also authorised his receiving £100 a Year, being found perfectly competent. The two latter Persons will shortly have a claim to being placed permanently in their Situations at the Salaries of £150 a year each.

Appointment of D. Duncomb as chief clerk.

I have further the honor to report that I have placed Mr. David Duncomb in the situation of Chief Clerk of the Surveyor General's Office at a Salary of £200 a Year. This Department was much in want of an efficient chief clerk, and Mr. Duncomb from his knowledge of Business has proved extremely useful. He is the person mentioned in Mr. Stanley's letter of the 8th of January last.

Return of survey establishment.

I do myself the honor, Sir, to enclose for your information, in reference to my Despatch No. 73, a Return of the Surveyor General's Department, by which you will perceive it is still very deficient, particularly in Draughtsmen. I have in consequence been obliged to continue a Convict in that Situation, though he is known to have taken very improper advantages of the opportunity it afforded him.

Clerk to be appointed.

I beg leave to add that it will be necessary to appoint a Clerk in the room of Mr. White placed in the situation of Draughtsman, which I propose doing, as soon as a competent person can be found.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Minute No. 93.

Government House, 7th August, 1828.

R. Hoddle to act as deputy surveyor-general.

Let It be notified that Mr. Robert Hoddle, the Senior Assistant Surveyor, is to act in the Situation of Deputy Surveyor General, untll the Secretary of State shall be pleased to make some permanent arrangement for the performance of the Duties of that Office.

1828. 16 Aug. Mr. Hoddle will be allowed according to the established Regulations a Moiety of the Salary of Depnty Surveyor General, Vizt., £250 and a £100 a Year for House Rent during the period he acts in that Situation.

Temporary appointments in survey office. Let it also be notified to the Surveyor General and Auditor that the following temporary Appointments have been made subject to the approval of the Secretary of State, Vizt.:—

Mr. E. J. H. Knapp, who has been employed as Draughtsman, to act as Assistant Surveyor with a Salary of £200 a Year.

Mr. Docker to be employed as Draughtsman with a Salary of £150 a Year.

Mr. H. T. White, Probationary Clerk, to be employed as Draughtsman with a Salary of £100 a Year.

The Salary of Mr. T. H. Halloran, Probationary Clerk to be raised from £60 to £100.

The above to take place from the present date, with the exception of Mr. Docker's Appointment, which is to be from the time of his commencing to act as Draughtsman. RA. DARLING.

[Enclosnre No. 2.]

Return of establishment of survey department.

LIST of Assistant Surveyors, Draftsmen and Clerks, employed in the Surveyor General's Department.

Situation.	Name.	Allowances. Salary.	Lodging.	Forage.	Total per Annum.	Date of Appointment.
		£	£	£ s. d.	£ s. d.	
Assistant Surveyor	Robert Hoddle*..	200	50	45 12 6	295 12 6	18 September, 1823.
do	J. B. Richards ...	200	50	45 12 6	295 12 6	21 July, 1824.
do	James Ralfe	250	50	45 12 6	345 12 6	18 May, 1825.
do	Heneage Finch...	250	50	45 12 6	345 12 6	2d February, 1825.
do	Thomas Florance	100	50	45 12 6	295 12 6	18 August, 1826.
do	Robert Dixon ...	200	50	45 12 6	295 12 6	1st November, 1826.
do	G. B. White	200	50	45 12 6	295 12 6	1st February, 1827.
do	Philip Elliott.....	200	50	45 12 6	295 12 6	17 May, 1827.
do	Peter Ogilvie.....	200	50	45 12 6	295 12 6	16 June, 1827.
do	W. R. Govett.....	200	50	45 12 6	295 12 6	10th July, 1827.
do	John Abbott	200	50	45 12 6	295 12 6	16th June, 1827.
do	E. J. H. Knapp...	200	50	45 12 6	295 12 6	7th August, 1828.
Draftsmen.....	John Thompson..	200	50	45 12 6	295 12 6	15th May, 1827.
do	John Brown	150	...	.....	150 0 0	19th April, 1827.
do	Mr. Docker.....	150	...	.....	150 0 0	1 May, 1828.
do	P. L. Bemi.....	100	...	.....	100 0 0	1st January, 1827.
do	Henry White.....	100	...	.....	100 0 0	7th August, 1828.
Clerks.....	D. Duncomb	200	...	.....	200 0 0	12th March, 1828.
do	H. Halloran	100	...	.....	100 0 0	7th August, 1828.
do	Vacant.....	...	...	.....	.....	.....

* Acting as Depnty Surveyor General, 7th August, 1828.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 23. per ship Royal Sovereign.)

17 Aug. Sir, Downing Street, 17th August, 1828.

I transmit to you enclosed the copy of a letter, which has been reeeived from the Secretary to the Treasury, enclosing a copy of one from the Commissioners of Colonial Audit, which

1828. 17 Aug.

suggests that distinct accounts be prepared of all sums which may have been issued on account of the New South Wales Veteran Companies for any period subsequent to the 24th December, 1827, in order that all such issues may be considered as advances from the Colonial Treasury on account of the Paymaster General of the Forces, and I have to desire that you will give directions for preparing and transmitting the Account required whenever you may have reason to think that no further advances will be required from the Treasury of your Government for the services described.

Accounts required of expenditure on veteran companies.

I am, &c.,
G. Murray.

[Enclosure No. 1.]

Mr. J. Stewart to Under Secretary Hay.

Sir, Treasury Chambers, 11th August, 1828.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed copy of a letter from the Commissioners of Colonial Audit, dated the 2d of April last, and I am to request that you will move Secretary Sir George Murray to cause Instructions to be given accordingly to the respective Governors and Agents with respect to the Accounts of those Corps, enumerated in the letter from the Colonial Auditors, as well as of such other Corps at the different Stations abroad, as are included in the Army Estimates of the present year.

Instructions re accounts of expenditure on military.

I am, &c.,
J. Stewart.

[Enclosure No. 2.]

Messrs. Byng, Conroy and Kingston to Lords of the Treasury.

My Lords, Colonial Audit Office, 2d April, 1828.

Referring to your Lordships' minute of the 7th December last, relative to the Military Expenditure of the Government of Ceylon, Mauritius, the Cape of Good Hope, and Malta, and to the Army Estimates for the current year submitted to Parliament, in which we find that the charges for the Ceylon Corps, the Malta Fencibles, and the New South Wales veteran Companies, and the pay of the Staff in the Mediterranean for some time defrayed from the Revenues of Malta and the Ionian Islands, are included; We beg leave to call your Lordships' attention to the Issues that will necessarily be made for those services, subsequently to the 24th December last by the Respective Colonial Governments, and by the Colonial Agents in this Country, until arrangements shall be made by the Secretary at War for the future conduct of and accounting for the Expenditure, thus, as we apprehend, placed under his cognizance.

Distinct accounts required of military expenditure by colonial governments.

As the services in question will, we presume from the 25th December last, be of necessity wholly disconnected from the Colonial accounts, we beg leave to suggest that the respective Governors and Agents should forthwith be directed to keep distinct accounts of all sums, issued by them for pay or other expenses of the several Corps and Staff, before mentioned, for periods subsequently to the 24 December, 1827; and that the amount of all such Issues should be considered as Advances from the Colonial funds, on account of

1828. 17 Aug. the Paymaster General of the Forces, to be repaid or otherwise adjusted, in such manner as your Lordships may think fit, and of which the detailed application will be acounted for, as may be directed by your Lordships and the Secretary at War, in conformity with the Enactments and Regulations, under which the Accounts of Sums granted by Parliament for the service of the Army are rendered.

We have, &c.,

EDMUND BYNG. J. KINGSTON.
JOHN CONROY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Royal Sovereign; acknowledged by Governor Darling, 20th June, 1829.)

18 Aug. Sir, Downing Street, 18th August, 1828.

Transmission of letter *re* G. Mills. I am directed by Secretary Sir Geo. Murray to transmit to you the accompanying copy of a letter from Mr. Robert Appleyard, soliciting information relative to the circumstances of the late Mr. Galway Mills at the time of his death; and I am to request that, if no legal difficulties or objections should exist to such a measure, you will transmit to this Country the private papers belonging to Mr. Mills, together with any information relative to his effects, etca., which it may be in your power to obtain.

I am, &c.,

HORACE TWISS.

[Enclosure.]

MR. R. APPLEYARD TO UNDER SECRETARY TWISS.

Sir, Lincoln Inn, 4th August, 1828.

Request for report *re* death and effects of G. Mills. I take the liberty of addressing myself to you in consequence of the Information received in this Country of the Death (and manner of it) of my poor friend, Mr. Galway Mills.* the Registrar of Sydney, New South Wales; and you will, I am sure, make every allowance for the Intrusion, when I inform you that I have been for 30 years the confidential friend and professional adviser of himself and all his family, and held (jointly with his friend the Honble. Mr. Byng) full Powers to act in all his concerns during his absense from England.

His brother, Mr. Charles Andrew Mills, resides wholly at Rome, and his only son, Cowper Douglas Mills, is absent with his Regiment, and therefore unable to take any steps or obtain any information as to the melancholy event we have to deplore, for which I have no means of accounting, as Mr. Mills (from whom I had very cheerful letters, dated the end of January last) was in the receipt of an Income more (as he told me) than adequate to his wants; and I am not aware of any one thing that could press upon his mind to produce such a result; and, on this point, may I entreat the favor of you to procure from Sydney the best explanations that can be given on the subject, as well as with respect to the state of his circumstances and Property, and what became of it, also whether he made any will; all this Information is necessary for his poor son, in order that he may judge of the propriety of

* Note 93.

administering to his father's estate, and to what amount; and as I am wholly unacquainted with any one on the spot (except one Person to whom I have written, taking the chance of his being there) capable of procuring it, and conceiving that there is no probability of its being obtained but thro' *an Official Channel*, I venture to request that you will, Sir, have the goodness to use your endeavours to effect it. 1828. 18 Aug. Request for report *re* death and effects of G. Mills.

I have, &c.,
ROBT. L. APPLEYARD.

If Mr. Mills' private papers and effects could be transmitted to England, I would readily take charge of them for his family, for which I can have full authority.

Was Mr. Mills' Salary payable in England, and, if so, Pray was anything due upon it at his Death?

I believe my brother has the honor to be known to you.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private," per ship Boddington.)

My dear Sir, Sydney, 18th August, 1828.

I am sure you will forgive the liberty I take in again drawing your attention to Lieutenant Stirling,* who now appears to have established himself by his Official communications with your Department as the Representative of this Colony and the Corresponding Agent of Sir Thomas Brisbane. I received with the last Despatches two Letters from your Office, forwarding Applications from the soi-disant Mr. *Secretary* Stirling on the part of Individuals immediately resident here, who, passing by the local Government, appear to have availed themselves of his Agency. That this proceeding of Lieutenant Stirling is an assumption on his part, unwarranted by Sir Thomas Brisbane (who it must be presumed would have written himself to the Secretary of State and not have deputed his former Aid de Camp, had he intended to interfere) I can entertain no doubt; but, if not checked in time, the example may prove inconvenient if not embarrassing to the Government. The Anecdote, which I am about to relate, will perhaps induce you at once to put a Stop to it. By an Arrival, previous to the receipt of your Letter† respecting the Application on the part of Mr. Howe to be designated by the Style and Title of "King's Printer" in Botany Bay (made by the way to my friend Brisbane's *Representative* by the Printer's *Agent* in London, and not by the Printer himself as I am informed), I had been apprised that the next Despatches would contain Orders from the Secretary of State for the Appointment of Mr. Howe to the Situation of King's Printer. On enquiring how this intelligence had been received, I was told that Lieutenant Stirling had written to a Woman, whom he had formerly kept, desiring she would communicate to Mr. Howe the success of his exertions at the Colonial Office, and that he

Interference of R. Stirling in colonial affairs.

Application by R. Howe for title of "King's printer."

* Note 94. † Note 95.

1828. 18 Aug. might immediately expect his nomination to the Post he had so long wished for! This, my dear Sir, is the short History of this *second hand* performance by the *Deputies* of the Government Printer and of the late Governor, and formally announced to the Botany Bay World through the medium of a frail Fair, the ci-devant Chere Amie of the busy Lieutenant. Trifling as the matter really is, I have nevertheless thought it right to put you in possession of it. You may laugh, if you please; but it will not be totally useless, if it be the means of shewing such Men as *Lieutenant* Stirling that, when no longer in place, they should not meddle with matters out of their Sphere, but leave their Masters to write for themselves. With a thousand apologies for this unofficial intrusion, I remain, &c.,

Necessity for preventing interference.

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 24, per ship Royal Sovereign.)

19 Aug. Sir, Downing Street, 19 August, 1828.

Royal staff corps to be reduced. Having referred for the consideration of the General Commanding in Chief your despatch of the 7th of March last No. 30, in which you suggest the expediency of reducing the Company of the Royal Staff Corps at New South Wales, I have the honor to acquaint you that, in a communication which has been received from that Department, it has been stated that the General Commanding in Chief will recommend to His Majesty that this Corps should be reduced, and that the Officers, who would be affected by the reduction, should be seconded on the Regiment to succeed to vacancies as they may occur.

I have also to acquaint you that it has been intimated that you will receive instructions to dispose of the men belonging to the above-mentioned Corps by allowing them either to volunteer into the Regiments serving in New South Wales, or to establish themselves there, sending home such only as are unwilling either to extend their services to other Corps or to remain in the Colony as Settlers. I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(A circular despatch per ship Royal Sovereign.)

Sir, Downing Street, 19 August, 1828.

Transmission of order-in-council. I have the honor to transmit to you herewith, for your information and guidance, a copy of an Order of His Majesty in Council of the 28th of April last, declaring it lawful for Spanish Ships to import into any of the British Possessions abroad, from

the Colonies and Foreign Possessions of His Catholic Majesty, goods, the Produce of those Colonies and Possessions, and to export Goods from such British Possessions abroad to be carried to any Foreign Country whatever. 1828. 19 Aug.

I am, &c.,
G. MURRAY.

[Enclosure.]

ORDER-IN-COUNCIL.

Order-in-council granting Spanish vessels full trading rights in British possessions.

At the Court of Saint James's 28th April, 1828.

Present:—The King's Most Excellent Majesty in Council.

WHEREAS, by a certain Act of Parliament, passed in the sixth year of the reign of His present Majesty, intituled "An act to regulate the Trade of the British possessions abroad," after reciting that, "by the Law of Navigation Foreign Ships are permitted to import into any of the British Possessions abroad, from the Countries to which they belong, Goods, the Produce of those Countries, and to export goods from such possessions to be carried to any Foreign Country whatever, and that it is expedient that such Permission should be subject to certain conditions," it is enacted that "the privileges thereby granted to Foreign Ships shall be limited to the Ships of those Countries, which having Colonial Possessions shall grant the like privileges of trading with those Possessions to British Ships, or which, not having Colonial Possessions, shall place the Commerce and Navigation of this Country and its Possessions abroad upon the footing of the most favored Nation, unless His Majesty, by His Order in Council, shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign Country, although the conditions aforesaid shall not in all respects be fulfilled by such foreign Country."

And Whereas, by an Act, passed in the 7th and 8th years of His present Majesty's Reign, intituled "An Act to amend the Laws relating to the Customs," after reciting or taking notice of the said Act so passed as aforesaid in the 6th year of His Majesty's Reign, and after reciting that, unless some period were limited for the fulfilment by foreign Countries of the conditions, mentioned and referred to in the said recited Act, the Trade and Navigation of the United Kingdom and of the British possessions abroad could not be regulated by fixed and certain Rules, but would continue subject to changes dependent upon the Laws made from time to time in such Foreign Countries; It is therefore enacted that no foreign Country shall hereafter be deemed to have fulfilled the conditions so prescribed as aforesaid in and by the said Act, as to be entitled to the privileges therein mentioned, unless such foreign Country had in all respects fulfilled those conditions within twelve months next after the passing of the said Act, that is to say, on or before the 5th day of July, 1826; and, for the better ascertaining what particular foreign Countries are by Law permitted to exercise and enjoy the said privileges, It is further enacted that no foreign Country shall hereafter be deemed to have fulfilled the before mentioned conditions, or to be entitled to the privileges aforesaid, unless and until His Majesty shall, by some Order or Orders to be by Him made by the advice of His Privy Council, have declared that such foreign Country hath so fulfilled the said Conditions, and is entitled to the said Privileges; Provided always, and it is thereby declared and enacted, that nothing therein contained extends or

1828. 19 Aug.

Order-in-council granting Spanish vessels full trading rights in British possessions.

shall be construed to extend to make void or annul any Order or Orders in Council, theretofore issued under the authority or in pursuance of the said recited Act, or to take away or abridge the powers vested in His Majesty in and by the said Act, or any of those powers, anything therein contained to the contrary in anywise notwithstanding; and Whereas the conditions, mentioned and referred to in the said Acts of Parliament, have not in all respects been fulfilled by the Government of His Most Catholic Majesty the King of Spain, and therefore the privileges so granted as aforesaid by the Law of Navigation to Foreign Ships cannot lawfully be exercised or enjoyed by the Ships of Spain, unless His Majesty by His Order in Council shall grant the whole or any of such privileges to such Spanish Ships.

And Whereas His Majesty, by and with the Advice of His Privy Council, doth deem it expedient to grant the privileges aforesaid in certain cases to Ships of the Dominions of His Most Catholic Majesty the King of Spain, His Majesty doth therefore, by the advice aforesaid and in pursuance and exercise of the powers and authority in Him vested by the said recited Acts of Parliament, declare and grant that it shall and may be lawful for Spanish Ships to import into any of the British Possessions abroad, from the Colonies and foreign Possessions of His Most Catholic Majesty, goods the produce of those Colonies and Possessions, and to export goods from such British Possessions abroad, to be carried to any foreign Country whatever.

And the Right Honorable the Lords Commissioners of His Majesty's Treasury and the Right Honorable William Huskisson, one of His Majesty's Principal Secretaries of State, are to give the necessary directions herein, as to them may respectively appertain.

Js. Buller.

Under Secretary Hay to Governor Darling.*

20 Aug.

Letter of introduction for E. Deas Thomson.

My dear Sir, Downing Street, 20th August, 1828.

This letter will be presented to you by Mr. E. Thomson, who, as you were informed by Mr. Huskisson's letter of the 13th of May last, has been appointed Clerk of the Council at New South Wales, and I beg to introduce this gentleman to your protection and good offices. I remain, &c..

R. W. Hay.

Governor Darling to Lord Francis Leveson Gower.

(Despatch per ship Boddington.)

Land leased by J. Oakey given to T. B. Gibbs.

My Lord, Government House, 20th August, 1828.

I have the honor to acquaint Your Lordship, in reference to Your Letter of the 13th of February last, that the period having expired for which Mr. Oakey had received Authority to occupy the land in question, Mr. Gibbs, a Lieutenant on the Half Pay of the Navy, was allowed to rent it with a view to purchase.

It was the practice formerly to grant "Tickets of Occupation" such as Mr. Oakey received (dated the 15th of March, 1824),

* Note 3.

for a period of 18 Months, at the expiration of which, if the Parties did not return to the Colony, the Ticket was considered to be cancelled. 1828. 20 Aug.

Mr. Oakey is still absent and certainly can have nothing to complain of, not having returned within the period prescribed. Should he however find it convenient to come out, there will be no difficulty in his obtaining land to the full Amount of his Available Capital under the Regulations* recently established relative to Officers of His Majesty's Navy. I have, &c., Land available for J. Oakey.

RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 106, per ship Boldington.)

Sir, Government House, 27th August, 1828. 27 Aug.

Having communicated to you fully, in my Despatch of the 2d inst. No. 93, the result of the deliberations of the Executive Council on Earl Bathurst's Despatch of the 2d April, 1827, No. 29, respecting the arrangements which it appeared necessary to adopt under existing circumstances for the more convenient disposal of the Unlocated Lands, I now do Myself the honor, Sir, to forward for your consideration the accompanying Copy of the Minute of Proceedings of Council with Enclosures on the subject of the lands granted and disposed of by Sir Thomas Brisbane, after the receipt of the Public Instructions similar to those under which I am acting. Transmission of minute of proceedings of executive council.

2nd. You will perceive, Sir, by Enclosure No. 3 (Copy of which was transmitted with my "Separate" Despatch dated 28th of May last) that the question originated with certain Individuals, who had been allowed to purchase Land a short time previous to Sir Thomas Brisbane's departure, and also the view taken of it in my reply No. 4. Petition *re* instalments due on land purchased.

3d. I have, however, been induced, from the distress which is generally felt from the want of Money and which is to a very serious extent at this Moment, to propose as explained in the Minute, which I laid before the Council (Enclosure No. 2) that the Arrangement, submitted in my Despatch No. 93 by the present opportunity, be applied to the lands in question. My Minute (No. 2) explains so fully all the particulars of the Measure, that it appears unnecessary for me to trespass on your time by going into any further details in this place. Relief proposed by R. Darling.

4th. It has been deemed sufficient under existing circumstances as will be seen by the Minute of Council (No. 1) that the Parties pay Interest at the rate of 5 per cent. from the period of the purchase Money falling due, until I shall be honored with your Orders on the subject.

* Note 96.

1828. 27 Aug.

Lands sold and granted by Sir T. Brisbane.

5th. The Lands authorised to be *sold* between the 18th of May, 1825, and the 1st of December following, as appears by Sir Thomas Brisbane's Warrant, amount to 558,110 Acres; Those granted on the payment of Quit Rent to 223,555 Acres. But, in addition to those included in the general Warrants, several Individuals appear to have received special orders, which have been presented from time to time, and will of course come under the proposed Regulation, if it be approved.

Disappointment to government by non-payment.

6th. I need not remark further than I have already done, in my Despatch above referred to, the serious disappointment which is occasioned by the Non-payment of so considerable a Sum of Money as that which is due to the Government on account of these lands, and, though I am aware of the impossibility of the greater Number of the purchasers fulfilling their engagements,

General negligence of obligations.

I cannot help thinking that Persons here are not in general sufficiently alive to the necessity of discharging their obligations to the Government, or to the inconvenience which the Government must suffer from their want of punctuality.

I have, &c.,
RA. DARLING.

[Enclosures Nos. 1 and 2.]

Consideration by executive council of relief proposed for purchasers of land.

EXTRACT FROM MINUTE OF THE PROCEEDINGS OF THE EXECUTIVE COUNCIL.

Wednesday, 27th August, 1828.

PRESENT:—His Excellency The Governor; His Honor The Chief Justice; The Venerable The Archdeacon; The Honble. The Colonial Secretary.

The following Minute of His Excellency the Governor was next laid before the Council and Read:—

Minute for the consideration of the Executive Council.

25th August, 1828.

The accompanying copy of a Petition which has been received from sundry Individuals, who were authorised to Purchase Land from the Government previous to the departure of Sir Thomas Brisbane, is submitted to the Council, together with a Copy of the Answer returned thereto.

Considering however the pressure of the times, and being induced in consequence to afford these Persons such reasonable Indulgence as can be consistently extended to them, I am induced to request the Council will consider, whether there appears any objection to the Regulation lately proposed with respect to the Sale of Lands being applied to the Lands in question; that is, instead of the Purchasers paying the full Sum of 5s. an Acre according to their agreement, that they pay an Annual Quit Rent of 2d. an Acre, which is the Interest at 5 per Cent. of 3s. 4d., the general average Value of Lands as lately fixed; and the Sum of 1s. 8d. being the difference between 3s. 4d. and 5s., which latter Sum they agreed to pay as already stated on receiving authority to Purchase.

An Arrangement to this effect would place them according to their Application on the same footing as is proposed for Purchasers under present circumstances. 1828. 27 Aug.

In general, these Persons paid a Deposit of 10 per Cent. at the time of receiving their Land, which on 5s. is equal to 6d. per Acre, deducting this from 1s. 8d. (the Sum to be paid over and above the Quit Rent), 1s. 2d. will remain due, which Sum it is suggested they be required to pay down agreeably to the proposed Regulations. Consideration by executive council of relief proposed for purchasers of land.

It is further submitted that the whole of the Government Lands alienated by Sir Thomas Brisbane's authority, whether by Grant or Sale subsequent to the 18th May, 1825, when the Regulations now in force were first promulgated, be included in the arrangement under reference to the Secretary of State. It is considered that it will be satisfactory to the Grantees, as well as to the Purchasers, whose Petition is annexed, and it will at the same time prove convenient to the Government, as it will have the effect of simplifying the general arrangement, by including a large Quantity of Land at present held on several different conditions under the Regulations preparing for transmission.

RA. DARLING.

The Council concurred in the Opinion that the arrangement proposed by the Governor's Minute was extremely desirable and suggested that, until the Secretary of State's approval could be obtained, the Purchasers alluded to should be required to pay an Interest of 5 per cent. per Annum upon the Money due by them respectively on this amount.

T. DE LA CONDAMINE, Clk. Col.

[Enclosures Nos. 3 and 4.]

[*These were copies of a petition from C. Throsby and others and of Governor Darling's reply, dated 21st April, 1828; see page 207 et seq.*]

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 107, per ship Boddington; acknowledged by Sir George Murray, 16th April, 1829.)

Sir, Government House, 28th August, 1828. 28 Aug.

I regret having occasion to inform you that the Hooping Cough was introduced* into the Colony some time since by the Ship Morley, which came out with Convicts. Introduction of whooping-cough into colony.

It was not discovered that the Disease had prevailed on Board until there had been a free communication with the Ship, though the Children of some of the Soldiers were at the time suffering from its effects. Every precaution that circumstances permitted were then immediately taken by placing the Children on board one of the Government Vessels, which was kept in Quarantine, until a Medical Board had pronounced that the Disease had ceased, and there was no longer any ground of apprehension. I am however sorry to say the result has proved the opinion to Quarantine of patients.

* Note 97

1828. 28 Aug.

have been erroneous, unless indeed the infection was communicated in the first instance, the Disease having since been very general in the Colony and several Children having died.

Possible introduction of small-pox.

2d. I am sorry to think there is also reason to apprehend that the Small Pox may appear, the Crew of a Convict Ship the "Bussora Merchant" having been affected with the Disease on the Passage out.

It appears that one of the Crew, a Blackman, was seized with it a day or two before the Ship sailed, when he was removed to the Hospital Ship at Sheerness, and the "Bussora Merchant" proceeded on her Voyage. Four Men were also attacked with the Disease during the Passage, but it was not reported in time to prevent communication with the Shore, and the Master himself landed without mentioning the circumstance and dined in Sydney.

Isolation of crew and passengers of infected ship.

As soon however as it was known that the Disease had existed on board, the Ship was placed in Quarantine, and the Guard and Convicts were landed and sent to a remote part on the North Shore, where they still remain.

The Matter has been twice brought under the consideration of the Executive Council, and I do myself the honor to enclose a Copy of the Minute of the Proceedings which took place on the first occasion.

Should the Small Pox unfortunately make its appearance in the Colony, the consequences will probably be very serious, as Vaccination* has been very little attended to by the People in general, and the Disease has not been known here* for many Years.

I have, &c.,

Ra. Darling.

[Enclosure.]

Precautionary measures to prevent introduction of small-pox.

Minute of the Proceedings of the Executive Council on Tuesday, the 29th Day of July, 1828.

Council Chamber.

Present:—His Excellency The Governor; His Honor The Chief Justice; The Venerable The Archdeacon; The Honble. The Col. Secretary.

His Excellency the Governor informed the Council that a Convict Ship named the Bussora Merchant had arrived at the Porte, and that it had been reported by the Surgeon Superintendent that several Cases of Small Pox had occurred among the Crew during the Voyage.

His Excellency then laid before the Council the Letter, which had been received from the Surgeon Superintendent of the "Bussora Merchant," together with a Report made by the Principl. Colonial Surgeon and Staff Surgeon to the Forces in consequence of their having been ordered to examine into the nature and extent of the disease, stated to have prevailed among the Crew of the Ship above mentioned. And His Excellency requested the Council

* Note 98.

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would take into consideration what measures of precaution it would be necessary to take in order to prevent the introduction of so malignant a Disease into the Colony.

Precautionary measures to prevent introduction of small-pox.

On reference to the Reports made by the Surgeon Superdt. and the Medical Officers, who had visitted the Ship, The Governor called the attention of the Council to the difference which appears in the date, when the last Case of the disease is stated to have occurred.

Dr. Bowman, who was examined before the Council on this point, stated that he had not inspected the Surgeon's Journal previously to making his Report, but that, having subsequently sent for it, as also for the Sick Book, he finds that both have been very incorrectly kept.

These Books having been sent for and examined by the Council, it appeared that the Journal had not been written up later than the 25th of May and contained only Three Cases of Small Pox, Vizt.:—

1st. James Kent, Convict, on the 6th of April, discharged 23rd April.

2nd. Henry Barnes, Sailor, a Black, on the 8th of April.

3rd. Charles Weeks, on the 12th of April, discharged on the 30th April.

The Sick Book was next laid before the Council and contained only Two Cases, which are stated to be Small Pox, Vizt.:—

James Kent, put on the Sick List on the 6th of April, and discharged on the 22nd of that month.

Henry Barnes, one of the Crew, put on the Sick List on the 8th of April, and discharged on the 22nd of that month.

It appeared, upon reference to the case of Charles Weeks in the Journal, that he was seized with the Small Pox on the 12th of April, although not so stated in the Sick Book, and that the Small Pox was at that time spreading through the Ship.

Under all the circumstances of the Case, the Council advised as follows, Vizt.:—

1st. That the Prisoners and Military Guard should be landed at some convenient place on the North Shore at a distance from Sydney, and that, upon their being landed by one of the Ship's Boats, every Man should be well washed in warm Water and then supplied with new Clothing and Bedding.

2nd. That all the old Clothes and Bedding and other Articles now in use be destroyed.

3rd. That Tents be provided for the accommodation of the whole in as many detached Parties as may be convenient.

4th. That all communication with the Inhabitants be strictly prohibited.

5th. That the Ship remain in Quarantine in Neutral Bay, where she now lies, and be thoroughly cleansed and fumigated, and that all the Plank and Timber forming the Births be burnt.

6th. That the Surgeon Superdt. be required to attend to the Men on Shore as well as to the Crew of the Ship, and that all communication between the Ship and the People on shore be made by means of the Ship's Boats.

RA. DARLING.

A true Extract:—T. DE LA CONDAMINE, Clk. Col.

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APPENDIX S TO THE PROCEEDINGS OF THE EXECUTIVE COUNCIL.

Minute No. $\frac{7}{1828}$.

Report *re* small-pox on ship *Bussorah Merchant*.

Sir, Bussorah Merchant, 26th July, 1828.

I beg leave to acquaint you for the information of His Excellency The Governor That, a few days previously to the sailing of the Bussorah Merchant from England, one of her Crew was seized with a severe attack of Small Pox. He was immediately taken to the Hospital Ship at Chatham, and the Navy Board acquainted with the circumstance.

Since that period, one of the Crew, two of the Prisoners, and an Infant Child belonging to one of the Guard, have had the Disease. The last having occurred on the 9th of May; there has been no trace or any sympton of it from that time.

I have, &c.,

ROBERT DUNN, Surgeon Superintendt.

APPENDIX T TO THE PROCEEDINGS OF THE EXECUTIVE COUNCIL.

Minute No. $\frac{7}{1828}$.

Sir, Sydney, 27th July, 1828.

Report by surgeons.

Agreeably to the Instructions communicated to us this Morning, we repaired on board the "Bussorah Merchant," Convict Ship, and were informed by Doctor Dunn the Surgeon Superintendent, that some of the Crew, Convicts, and one Child had laboured under Small Pox in the early part of the Voyage from England to this Colony, and it appears the last case was discharged from the Sick Report on the 30th of April. There has been no appearance of the Disease since that period, but we would recommend that no intercourse be permitted to take place between People from the Shores and the Ship until it can be ascertained that the probability of infection is completely removed.

Preventive measures recommended.

We would also recommend that, while they are kept in Quarantine, the Ship should be well ventilated and white-washed, and the Wearing Apparel and Bedding be scoured before the Men are permitted to Land.

We have, &c.,

J. BOWMAN.

DONALD MCLEOD, Surgeon to the Forces.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch marked "Separate," per ship Boddington; acknowledged by Sir George Murray, 3rd September, 1829.)

Sir, Sydney, 28th August, 1828.

Outrage on natives at Fort Wellington.

I do myself the honor to forward for your information the accompanying Copy of a Minute of the Proceedings of the Executive Council, together with sundry Documents relating to the subject of a very gross Outrage committed by a Party employed in Patrolling the Neighbourhood of the Settlement of Fort Wellington on the Northern Coast in the Month of December last.

The Case is briefly as follows:—The Commandant, from the very serious annoyance to which the Settlement was subject from

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Outrage on natives at Fort Wellington.

the Natives, as pointed out in my Despatch No. 23, and which had been rendered the more alarming from the sickly State of the Troops and the Settlement generally, was induced to offer a Reward for any Native who should be brought in, hoping that, by keeping such Individual at the Settlement, it might have the effect of preventing any further hostility on the part of the Natives at the present moment, and operate hereafter as a means of conciliating them, when, on being released, they should find the Person so detained had been treated with kindness and attention.

This was the motive of the Commandant, but the object was very awkwardly effected by the Party. They appear to have proceeded some distance from the Settlement, when they discovered a large Body of Natives. Being under some apprehension in consequence of the smallness of their own Numbers, they fired on the Natives and wounded four or five at least, amongst whom it afterwards appeared there was a Woman and two Children. The Woman and one of the Children did not survive; the other, a Girl of between 6 and 7 Years old, was taken to the Settlement. But it is still more painful to relate that they appear to have despatched an unfortunate Man, who had been wounded by their first fire, from a desire, as they state, of releiving him from his Sufferings, the nature of his Wounds rendering it impossible to remove him. You will perceive, Sir, by the enclosed Documents, that every Step has been taken to prevent a repetition of such a distressing occurrence. But, being desirous of ascertaining whether anything further could be done with reference to the past, I was induced to submit the matter to the Council, and you will see, by the enclosed Minute of Proceedings, that the Council have not been able to suggest the adoption of any further measure.

I informed the Council that I have given Orders that the Men, concerned in this unfortunate Affair, should be sent to Sydney; but it did not appear, much as the Event is to be deplored, that any benefit would result from the further prosecution of the matter. I have however, Sir, deemed it my duty to put you in possession of the case and shall be ready to carry any Orders into effect, which you may be pleased to give me on the subject.

Commendation of H. G. Smyth.

I cannot close my Letter without assuring you that, independant of Captain Smyth's Zeal as an Officer, which entitles him to the warmest approbation of the Government, he is a most conscientious Man, and I am sure entertains as just an abhorrence of the unfortunate Event which occurred under his Command, as any one possibly can.

I have, &c.,

Ra. Darling.

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List of enclosures.

[Enclosures.]

[*These enclosures consisted of*:

Extract from the minutes of the executive council, 27th August, 1828.

Extract from letter from H. G. Smyth to colonial secretary Macleay, 12th February, 1828.

Proceedings of inquiry at Fort Wellington, 30th December, 1827, and 2nd January, 1828.

Memorandum by Governor Darling to colonial secretary Macleay, 30th July, 1828.

Letter from H. G. Smyth to colonial secretary Macleay, 6th August, 1828.

Extract from diary of H. G. Smyth, 27th December, 1827.

Despatch from colonial secretary Macleay to captain Barker, 14th August, 1828.

Copies of these papers will be found in a volume in series III.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 25, per ship Swiftsure.)

29 Aug.

Appointment of J. E. Manning as registrar.

Sir, Downing Street, 29th August, 1828.

I have the honor to acquaint you that His Majesty has been pleased to appoint Mr. John Edye Manning to succeed to the Office of Registrar of the Court at New South Wales, which had become vacant by the death of Mr. G. Gallway Mills; Mr. Manning will accordingly proceed forthwith to the Colony to exercise the duties of his Office; and you will consider yourself authorized to grant to him the same rate of emolument as was enjoyed by his Predecessor, of which he will receive one moiety from the date of his embarkation. I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 108, per ship Boddington.)

Sir, Government House, 29th August, 1828.

Report on necessary public buildings.

I now proceed to carry into effect the intention expressed in my Despatches No. 74 and 78 of the present Year, by submitting for your consideration the Details connected with the erection of certain Buildings, which appear, as I have already stated, indispensable to the Public Service, "Vizt.":—

Jail in Sydney.
Do and Court House in Parramatta.
Court House for the Country Districts.
Custom House and Stores in Sydney, and
Additions to the Observatory.

1st. I have explained so fully in my Despatch No. 78,* transmitting the Report of the Civil Engineer on the New Jail, the

* Note 99.

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necessity which exists for completing a portion of that Building, that I shall only add in this place the Extract of a Letter lately addressed to me by the Chief Justice representing the inadequacy of the present Jail. The Plan, which is now transmitted, is according to the design of Mr. Ainslie and the Building was commenced by Sir Thomas Brisbane, in consequence as I understand of Instructions from Home. The Expense would be very considerable indeed, if the whole Building* as originally proposed were to be completed. The proposition, now submitted, is to complete such part only as will be required under present circumstances, the Expense of which according to the enclosed Estimate would Amount to £133,729.

Necessity for new gaol at Sydney.

Estimate for completion of part of gaol by contract.

The Estimate has been framed with reference to the current Prices of the Colony, and supposes the Work to be undertaken by Contract. It is intended that the Building shall be substantial, as best suited to the purpose, and finished in the plainest manner.

2d. I have further Sir the honor to report that the Jail at Parramatta is in the worst possible condition, being in fact in a state of complete delapidation and has on all occasions been presented by the Grand Juries as totally unfit for the purpose.

Gaol and court-house at Parramatta.

The Court House at that place is a private Building rented by the Government and the lease will shortly expire.

I beg leave in consequence to forward a Plan and Estimate according to which one Building would answer the double object, which is considered both economical and convenient. The Estimated Expense is £3,677 6s. 7d., which is calculated, the same as the Sydney Jail, on a supposition of the Work being undertaken by contract.

Plan and estimate for new building.

3d. I have adverted, in Paragraph No. 4 of my Despatch No. 78, to the pressing demands of the Magistrates for the erection of Court Houses in the Country Districts. It must be admitted that these Gentlemen are subjected to great inconvenience from the circumstance of being obliged to assemble at the Houses of each other; and they also complain and very seriously that, in addition to their gratuitous Services, they are under the necessity of appropriating their private Dwellings as places for the temporary confinement of Prisoners. They have long appeared to think that they should not be subjected to these inconveniences in the present advanced State of the Colony, though they submitted to them when in its Infancy; and I assure you, Sir, the manner, in which I am importuned to relieve them from these inconveniences, is not less embarrassing to me personally,

Demand for court-houses in country districts.

 * Note 69.

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than complying with their Applications would be inconsistent with the desire of His Majesty's Government to economise the public Expenditure.

Alternative plans for court-houses.

I beg to submit for your consideration three Plans for Court Houses on a small Scale in the Country Districts. No. 3 is considered the most eligible and convenient, and the additional Expense of £100 will not perhaps be thought an object in this Case. The Estimate of the Plan recommended is £661.

Court-houses required.

A Court House of this description is required at the "Stone Quarry Creek" in the County of Camden, in the place of that at Cawdor lately given over to Mr. McArthur, and another in the neighbourhood of Penrith, the Building used for this purpose being in danger of falling in; while the Magistrates of Argyle and those of the Several Districts of Hunter's River are equally pressing in their applications for similar accommodation.

Plan and estimates for customs house, bond and stores.

4th. I do myself the honor of transmitting, as I intimated my intention of doing in my Despatch No. 74, Paragraph 6, a Plan and Estimate for the erection of a Custom House, including Warehouses below for the reception of Goods to be placed in Bond, and a public Wharf which are all urgently required. The Merchants who pay heavy "Wharfage Dues" (nine pence per Package, amounting last year to £1,700) complain extremely of the insufficiency of the present Wharf, which is built of Wood and but of inconsiderable extent. The Plan and Specification herewith transmitted are so detailed and clear, that it cannot be necessary for me to add any thing in explanation, and I presume the Expense, which does not Amount to £14,000, will not be thought unreasonable when the object is considered. It may be useful to add that £750 per Annum is paid at present for the Rent of Custom House Stores, which are situated in different parts of the Town, and that the Custom House, which is a Building belonging to the Government, is at a considerable distance from the place of landing.

This Building, though inconveniently situated for a Custom House, would probably sell to great advantage; and, by applying the proceeds, together with the Annual Saving of the Rent paid for Store Houses, to the New Buildings, the measure would no doubt ultimately prove economical, while the "Dues" paid by the Merchants on landing their Goods may be considered as giving them a fair claim to a suitable and commodious Wharf.

I beg to suggest, should it be judged proper to authorise the building of the Custom House and Wharf as proposed, that the Iron Work, Cast Iron Pillars and Girders, be sent from Home.

5th. I beg leave, Sir, further to transmit a Plan and Estimate of a proposed addition to the Observatory at Parramatta,

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intended for the accommodation of the Government Astronomer, Mr. Rumker, who is a Man of simple habits, has, since the departure of Sir Thos. Brisbane, resided in the Apartment where the Astronomical Instruments and Apparatus are kept and made use of. It appears on every Account desirable, as well for the better preservation of the Instruments as for his personal comfort, that he should have a separate Apartment; and I hope, Sir, you will authorise the Expense necessary to be incurred on this account, which according to the Estimate will probably not exceed £337.

Additions proposed to observatory at Parramatta.

6th. I have only further to observe that the Plans and Estimates now transmitted have been prepared with every possible care. They may however be improved at Home by more skilful Persons than those employed here. The information, which the several Documents contain, will it is presumed at all events prove useful in framing others. I have, &c.,

Preparation of plans and estimates.

RA. DARLING.

[Enclosure.]

EXTRACT of a Letter from His Honor The Chief Justice to His Excellency The Governor, dated 5th August, 1828.

"WITH the concurrence of the Judges, I beg leave to acquaint Your Excellency, that, in executing the authority delegated to us by His Majesty, we have experienced great difficulties in consequence of the very limited accommodations afforded for the purposes of Prison Discipline in His Majesty's Gaol and Prison Hulk at Sydney. Difficulties indeed, that have on this account rendered it impossible for us to Frame Rules and Regulations conformably with the wise and beneficient Provisions of the Stat. 4 Geo. 4, Chap. 64, under a deep sense of the importance of Prison Discipline in this Colony. We have availed ourselves of the opportunity afforded us of bringing under Your Excellency's attention, with a view of the same being communicated to The Right Honorable The Secretary of State for the Colonial Department, that we consider the Gaol at Sydney too confined in extent and accommodation, and too inconveniently situated to enable us to adopt or enforce a good and effectual system of Prison discipline in this Colony." I have, &c.,

Criticism of gaol at Sydney.

FRANCIS FORBES, Chief Justice.

GOVERNOR DARLING TO LORD FRANCIS LEVESON GOWER.

(Despatch per ship Boddington.)

My Lord, Government House, 29th August, 1828.

I have the honor to acknowledge the receipt of Your Lordship's Letter of the 14th of February last, and to acquaint you that, in consequence of the Orders therein contained, a further Sum of £100 has been paid to Anthony O'Reilly to enable him to settle in some useful occupation; and I enclose his receipt for that Sum. I have, &c.,

Payment of money to A. O'Reilly.

RA. DARLING.

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30 Aug.

Sir George Murray to Governor Darling.

(Despatch No. 26, per ship Swiftsure; acknowledged by Governor Darling, 21st April and 25th May, 1829.)

Sir, Downing Street, 30th August, 1828.

Despatches *re* controversies between governor and judges.

On assuming the Seals of this Department, I found a large collection of Despatches from yourself and of letters from Mr. Forbes and Mr. Stephen, the Judges of the Supreme Court of New South Wales, on the subject of the various controversies which have unhappily subsisted between yourself and those Gentlemen during the last two years. Of these Documents a list will be found in the margin.* It is unnecessary for me to explain the causes, which have prevented my Predecessors in Office from signifying to you the views, which they had taken of these unfortunate discussions. But it has become necessary no longer to postpone communicating to you the conclusions, which His Majesty's Government have been led to draw from a careful perusal of the whole of this voluminous correspondence.

Discussion on restraint of press.

1st. The discussion between you and the Chief Justice respecting the proposed local Ordinance for prohibiting the publication of Newspapers, without the previous license of the Governor, is, under the altered state of the law, of importance only as illustrative of the spirit in which questions of this grave importance have been debated between the Chief Officers of Government in the Colony. I regret that Mr. Forbes should have advised, or that you should have been persuaded to adopt, the policy of allowing the Editors of the Public Newspapers to pursue their objectionable career without interruption until the question could be brought under the consideration of Parliament. I cannot think that this decision was in itself strictly justifiable, or was compatible with a large and enlightened view of the general interests of the Colony. The Law Officers of the Crown have reported their opinion that, in refusing to grant his Certificate to the Act for licensing Newspapers, Mr. Forbes correctly executed his duty, and that the reasons assigned by him for that decision were valid and sufficient. It is satisfactory to me to find that, in this instance, Mr. Forbes has justified the opinion entertained by my Predecessors in Office of his professional ability and knowledge. If his decision required any other

Confirmation of opinion of F. Forbes in refusing to certify licensing act.

* *Marginal note.*—Genl. Darling's despatches—27 March, 1827, Priv.; 18th April, 1827, Separ.; 8th May, 1827, No. 62; 23rd May, 1827, No. 70; 24th May, 1827, Separate; 29th May, 1827, Separate; 30th May, 1827, Separate; 31st May, 1827, Separate; 1st June, 1827, Separate; 3d August, 1827, No. 79; 18th Septr., 1827, Separate; 10th Octr., 1827, Separate; 20th Novr., 1827, No. 120; 14th Decr., 1827, Nos. 122 and 123; 15th Decr., 1827, No. 124; 10th Janv., 1828, Priv.; 14th Janv., 1828, No. 8; 15th Janv., 1828, No. 9; 15th Janv., 1828, Priv.; 16th Janv., 1828, No. 10; 19th Janv., 1828, Priv.; 30th Janv., 1828, No. 12; 16th Janv., 1828, Priv.; 26th Feby., 1828, P. and C.; 26 Feby., 1828, Sep.; 28th Feby., 1828, P. and C.; 1st March, 1828, P. and C.

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justification than that which it derives from the Report of the Attorney and Solicitor General, it might be found in the total absence in the Act of any Preamble* specifically stating the mischiefs which had arisen, or the dangers which were impending, from the unlicensed publication of Newspapers. Such a Preamble would have pledged the Legislature to the existence of those matters of fact which, had they been substantiated, would in the judgment of Mr. Forbes himself have justified the proposed Law.

Inadequate preamble to act.

I cannot, however, withhold the expression of my regret that Mr. Forbes should have refused to discuss this question in a private and confidential manner with you. Nothing, but a well founded suspicion that an unfair use would have been made of his confidence, could have justified the Judge in withholding it; and it would be impossible to suppose that he could here have had any real grounds for such an apprehension. No Government, and especially no such Government as that of New South Wales, can be safely conducted by distant and reserved communications between its principal Officers.

Censure on F. Forbes for avoiding private discussion.

I have perceived with concern that, although Mr. Forbes insists at great length on the absence of all prosecutions for Libel, as a reason why the proposed Law was premature and improper, he does not notice the very important fact that this circumstance was the direct result of his own advice. The acknowledgment of that fact ought not, I think, to have been withheld in the letters he has written on the subject.

Absence of prosecutions for libel due to F. Forbes.

2. Adverting to the transactions which took place respecting the Newspaper Stamp Act,* I am in the first place to apprize you that the questions of Law, which had been agitated in this case between yourself and Mr. Forbes, were referred to the Law Officers of the Crown, who reported their opinion that there was nothing inconsistent with or repugnant to the law of England in the Bill for imposing a Stamp of Four pence upon each Newspaper. But they further reported that, finding no reason to doubt that the Judge had formed the contrary conclusion honestly, they thought he had executed his duty correctly in acting upon that opinion.

Counsels' opinion *re* action of F. Forbes and stamp act.

The Act was published imposing a duty of Four pence as early as the 4th of May, 1827. It was to come into operation on the first day of the following Month. Yet it was not until the 27th of May, that Mr. Forbes announced his opinion that the Act was invalid, although it appears from his own letter to Lord Bathurst, that he had adopted that opinion and had foreseen all the train of embarrassments it would occasion as soon as he had read the Act in the Gazette. For this delay I regret to state

Censure on F. Forbes for delay in his opinion *re* stamp act.

* Note 100

1828. 30 Aug.

Censure on F. Forbes for delay in his opinion *re* stamp act.

that no adequate reason has been assigned. Armed, as he was, with powers far more extensive than any single Judge in any other part of His Majesty's Dominions enjoyed, and a Member both of the Legislative and Executive Councils of the Colony, I cannot think that Mr. Forbes had any right to reserve to himself an opinion of so much practical importance, until his judgment should be invoked upon the question in open Court. When at length he made the communication, it was at so late a period that you were reduced to elect on the sudden whether you would acquiesce in his advice, or revoke the Law. I must decidedly disapprove of the time selected for the disclosure of his opinion, as well as the previous concealment of it.

Denial by F. Forbes of complicity with newspapers.

To the charge of having been in communication on this subject with the Newspapers, Mr. Forbes has opposed his most solemn abjuration, to which it would be unfit that I should refuse credit, especially in the total absence of any contradictory evidence.

Acquittal of F. Forbes of guilt in permitting the act to pass.

I must further acquit Mr. Forbes of the imputation of having disingenuously permitted you in Council to pass this law without remonstrance, notwithstanding his knowledge of the fact that a duty of Four pence was about to be introduced. The Judge must be entitled to credit in stating that, pending the trial of a Prisoner for his life, a verbal Message to this effect may have reached his ear, without producing any impression on his mind.

It is fully admitted by you that your own proceedings on this occasion were irregular; and, although it is, therefore, unnecessary for me to make any comment on that circumstance, I cannot too strongly impress upon you the expedience of an adherence to the established forms of Public business on occasions of such serious importance as that under consideration.

Proceedings of judges in suits initiated by W. Carter.

3. With reference to the proceedings of the Judges of the Supreme Court upon the prosecutions and Action for defamation* commenced by Mr. Carter, or at his instance, against the Editors of a Public Newspaper, His Majesty's Government cannot undertake to express any opinion. I must assume that Judges, entrusted with the administration of the law, have formed an upright and accurate opinion upon any particular question, brought within their Judicial cognizance, unless the contrary can be shown upon Appeal to a superior Tribunal or by some other legal mode of decision. Independently of this general consideration, I find no sufficient reason to surmise that the Judges acted illegally or with partiality in Mr. Carter's case; and, even if I entertained a different opinion, I could, of course,

* Note 101.

draw no conclusion on the subject, unfavorable to the Judges, until their answer to the charge had been made. 1828. 30 Aug.

4. The unsuccessful result of the proceedings* against Dr. Wardell for Libels upon you is attributed by the Attorney General of New South Wales to the improper conduct of the Trial by the Judges; and in this opinion you concur. By the Judges themselves, that result is attributed to the indiscretion which, they think, marked your proceedings on this occasion. Proceedings against R. Wardell.

I cannot undertake to decide or even to investigate the question, whether too great a latitude of defence was allowed to Dr. Wardell. I entirely disclaim any right to review the Judicial proceedings of a competent legal Tribunal, except, indeed, when corrupt motives or wilful misconduct are directly imputed to the Judge. I am perfectly aware also that, when an accused person addresses a Jury in his own defence, it is scarcely possible to prescribe, with much accuracy, to what point the freedom of speech should be carried and where it should be restrained. I must further remark that this charge against the Judges is made without any opportunity having been afforded to them for making their own vindication, a practice which I cannot too earnestly deprecate.

Whether the Chief Justice be rightly accused of having laid down the Law too favorably for the Defendant is a question, into which, for many obvious reasons, I must entirely decline to enter. Neither can I attempt to form a Judgment, whether the explanatory evidence, tendered by the Solicitor General, was improperly rejected. I must, however, express my dissent from your opinion that the Judges manifested an improper spirit of partiality in allowing the Defendant to give evidence of a publication adverse to him in a Newspaper of far more recent date than those for which he was tried. If that publication was calculated, as I think it was, to produce an unfavorable effect on the minds of the Jury the Defendant had plainly a right to warn them against yielding to any such impression.

I have read with regret the letter* addressed by the Judges to you at the close of these Trials. It was, I think, an ill-judged and indecorous proceeding; and your answer to them affords a very conclusive refutation of the censure indirectly cast upon yourself for the excesses of another Newspaper.

I observe that the first of these Trials took place on the 29th of September, and the last on the 22d of December. In the interval, that is, on the 27th of November, was published your "Government Order"* respecting Lieutenant Governor Stewart. I cannot but express my concern that you should have adopted a practice so inconvenient and objectionable, as that which

* Note 102.

1828. 30 Aug.

Objections to practice of R. Darling in issuing orders and proclamations.

appears to prevail respecting "Government Orders." In the administration of the Civil Government of a Colony, it may of course be sometimes necessary to issue Proclamations calling upon the King's Subjects to obey existing Laws. But Proclamations, even of this nature, should not be issued without evident neeessity, and should invariably be expressed in the preeise and formal style of legal instruments. To my surprise however, I pereeive that you are in the habit of issuing Orders or Proclamations expressive of your own opinions as to the merit or demerit of partieular individuals and aiming at no immediate praetical result. I am to desire that this practice be immediately discontinued. It cannot but be productive of many grave inconveniences, among whieh it is not the least that it involves a great saerifiee of the dignity of your Office, and invites the hostility of those with whom you condeseend to enter into this unbecoming speeies of altereation. In future it will be fit that every Government Order and Proclamation, whieh it may be absolutely neeessary to promulgate, be framed in due legal form by the Attorney General of the Colony.

Instructions *re* orders and proclamations.

Censure on R. Darling for order issued.

Adverting to the terms of your Proclamation of the 27th of November, and to the time at which it was published, I cannot withhold the expression of my very sincere regret that you should have issued sueh an instrument at such a period. The allusions, which are obviously made in it to Messrs. Wardell and Wentworth, and the threat of censure and punishment held out towards all who should countenanee those gentlemen, would at any time have been objeetionable, as eompromising the dignity of your offieial eharacter. But, when one of those gentlemen was about to be tried upon a Proseeution, directed by yourself, for offenees against your own person by a Jury composed of Military Officers seleeted by yourself as Jurors, the use of sueh language as is contained in that Government order was singularly ill-timed and injudieious.

Inconvenient results of orders issued.

5. The Government Order to whieh I have referred, and a seeond Order* of the 13th of December on the subject of the Turf Club, led to those ineonvenient results which might have been antieipated. It is not my province to determine whether the Court formed a correet deeision in postponing their determination to grant or to refuse the Rule for a Criminal Information against the Colonial Seeretary. I confine myself to the remark that sueh a delay would, in the absence of any explanation, appear to have been extremely unfortunate. Ill-judged and objectionable as I certainly deem these Orders to have been, I can hardly suppose that the Court could really have regarded them as libellous. The avowed object of the Judges having been to

* Note 103.

allay irritation, nothing could apparently be less calculated to promote that object than the permitting it to remain for several weeks in doubt, whether the second Officer of the Government was not punishable as a Criminal for having countersigned and published a Proclamation of the Governor. 1828. 30 Aug.

Your representation that the Address delivered by the Chief Justice on this occasion was insidiously intended to shelter himself and his Colleague against well-founded Charges, and was not pronounced with the real intention avowed by its author, is a charge to which you must, on consideration, feel that it is impossible for me to advert, and which, in the exercise of your dispassionate Judgment, you would probably have declined to prefer. Charges against F. Forbes.

6. Respecting the question of the authority of the Governor of New South Wales over the Convict Population, the Law Officers of the Crown have reported their opinion that, under the former law, the Assignee of a Convict might have re-assigned him without the Governor's consent; and, that the Governor had no power, by means of a Ticket of leave or otherwise, to grant to a Convict without the consent of his Master the liberty of absenting himself from his Master's service, except in cases of pardon either absolute or conditional. Power of governor over convicts.

On this branch of the subject, therefore, Mr. Forbes appears to have been right in his opinion. The recent alteration* of the Law has set the controverted question at rest. Correct opinion by F. Forbes.

Your suspicion, that Mr. Forbes was in communication on this part of the subject with the Editors of the Public Newspapers, rests upon no proof and is repelled by the positive and solemn declaration of that Gentleman. Alleged association of F. Forbes with editors.

7. With respect to the conduct† of Mr. Justice Stephen in addressing to you his letter, dated the 12th of March, 1827, it is unnecessary for me to make any addition to the very grave admonition, addressed to that gentleman by my Predecessor in Office on the 21st of September in the same year. Censure passed on J. Stephen.

8. With reference to the conduct of the same gentleman upon the trial of the Action against the Magistrates of Parramatta, I shall content myself with expressing my concurrence in the opinions communicated to you in Mr. Huskisson's two despatches of the 11th of February last. Trial of magistrates.

9. The indirect encouragement which, as it would appear from your despatches, Mr. Stephen gave to the most unjustifiable language, used in open Court on the Trial of two Actions‡ for libel on the 13th and 17th of September, 1827, might possibly have imposed on me the painful necessity of taking a very serious notice of the Judge's conduct, had it not been for the Charge against J. Stephen.

* Note 104. † Note 105. ‡ Note 106.

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circumstance that he has had no opportunity of answering the charge thus preferred against him. I cannot acknowledge the sufficiency of the reason, which is assigned for leaving him in ignorance of this accusation. Your belief, that Mr. Stephen would resent such a communication as an injury, was no sufficient cause for your silence. You had an undoubted right to call upon him for explanations, and, had he improperly resented such a demand, the error and any personal inconveniences to himself, which might have resulted from it, would have been attributable to the Judge alone.

Necessity for demand for explanation by J. Stephen.

Appointment of registrar.

10. The discussion* between you and Mr. Forbes, respecting the appointment of a Registrar of the Supreme Court, appears to have been conducted on each side in the most unfortunate spirit. The protracted enquiry, whether Mr. Forbes was entirely consistent with himself, was scarcely relevant to the real question in debate. I think there was no real inconsistency, although there may have been so much difficulty in reconciling his successive opinions, as was sufficient to induce you to regard them as inconsistent.

I must acquit Mr. Forbes of any impropriety in pausing before he admitted the gentleman, whom you had appointed to be Registrar. It is plainly the right and duty of a Court to be satisfied of the lawfulness of every such nomination, before they admit the Officer to the discharge of his duties. There was no want of plausibility in the objection, taken by Mr. Forbes upon this occasion, since the appointment was clearly at variance with the mere words of the Charter.

Mr. Forbes exercised a sound discretion in ultimately abandoning the objection. In the absence of any provision in the Charter as to the mode of filling this Office, until His Majesty's Pleasure could be known, it belonged of right to the Governor to make a provisional appointment.

And here I cannot help remarking that the existence of mutual confidence and good-will, or even a just sense of what was due to the high Stations occupied by the Governor and the Chief Justice, would have prevented the whole of this unfortunate correspondence. The discussion was throughout conducted in terms harsh and repulsive, and little calculated on either side to allay the discord, which had unfortunately arisen. But I must in justice remark that it was, in the first instance, a failure of the courtesy due to the Chief Justice to fill up so important a vacancy in his Court without any previous communication with him.

First cause of dispute.

11. The charge of a direct violation of truth upon an important public transaction, preferred by you against the Chief Justice, would have attracted my most serious notice, had you

* Note 107.

1828. 30 Aug.

not unfortunately omitted to call upon Mr. Forbes for his defence against this very grave accusation. I have already expressed my disapprobation of the practice of transmitting home heavy charges against the Public Officers within your Government, upon which, in the absence of their vindication, it is impossible any just decision can be formed.

Charges transmitted without defences.

12. Respecting the temporary appointment of Mr. Foster to the Office of Solicitor General, I think Mr. Forbes is not unreasonable in remarking that your intention to make such an appointment should have been communicated to the Chief Justice before Mr. Foster's admission to the Bar. In this case, as in that of the Registrar, the question of Mr. Forbes's supposed inconsistency is discussed, as it seems to me, with a very misplaced degree of earnestness. It is obvious, on a perusal of the papers, that both you and the Chief Justice were writing under mutual misapprehension of each other's meaning. Feelings of mutual kindness or respect would probably have prevented a correspondence of this nature altogether.

Appointment of W. Foster.

13. Adverting to the complaints preferred by you against Mr. Francis Stephen, I conceive it enough to say that this young gentleman was very properly admonished that his conduct,* respecting the Sentinel, was indiscreet and unbecoming. I am however indisposed to notice with much severity the mere petulant indiscretion of a person, for whose age and inexperience some indulgence may be claimed.

Misconduct of F. Stephen.

14. I am now to advert to the proceedings at the Public Dinner of the Turf Club.† That the conduct of some parties on that occasion was unbecoming, I am fully disposed to admit. But it is with deep regret that I perceive the undue importance which has been attached by you to proceedings, which it had been more wise, I conceive, to have passed over in silence. No less than three persons have been dismissed from their Offices for their participation in these occurrences, and the Government has been engaged in a series of personal altercations, which, when the nature of the occasion is remembered, can scarcely fail to lower it in the general respect and affection of the Colonists.

Proceedings at dinner of turf club.

Two of these Officers, however, had, on former occasions, been guilty of serious indiscretions. But it is not, without much reluctance, that I am to confirm your decision to remove Mr. Mackaness. To displace a gentleman from his Office at so considerable a distance from his native country is a measure to be justified only by severe necessity. But, in this case, the necessity unhappily exists. Adverting to all the circumstances of this case, and especially to the statement you have made of this unfortunate gentleman's habits of low profligacy in places of

Confirmation of dismissal of J. Mackaness.

* Note 108. † Note 109.

1828. 30 Aug. public resort, I am constrained, however unwillingly, to sanction his dismission.

W. H. Moore to be reinstated in public service.

15. After fully considering the case of Mr. Moore, I am under the necessity of signifying to you that I cannot approve of the measures you adopted in his case, as I can find no sufficient reason for his removal from Office. Arrangements, which have been adopted in this country, will indeed have deprived him of the situation of Crown Solicitor. But I am to direct that you avail yourself of the first opportunity which may offer of again employing Mr. Moore in the Public Service in any suitable situation for which he may be qualified.

Disapproval of removal of H. G. Douglass;

16. I lament to be under the necessity of disapproving also your decision to remove Dr. Douglass for his conduct on the occasion in question if not perfectly discreet, that conduct was, I think, at least venial and by no means deserving so severe a punishment. I cannot however regret that this gentleman has made his choice to quit the Colony, since I am aware that, on several occasions, he has been involved in controversies which have greatly disturbed the peace of Society.

and of letters written by R. Darling.

I have read, with much concern, the letters* addressed by you to Messrs. Mackaness, Moore, and Douglass, and that requiring an apology from Mr. Foster for his imputed intimacy with Mr. Wentworth. In condescending thus to cast a series of severe reproaches against two gentlemen opposed to your Government, but wholly independent of the Crown, you have not, I fear, well consulted the dignity of your high station, and an occasion of triumph has been afforded to those, whom it is vain to expect that censures of this nature will alarm. Nor can I with propriety omit the expression of my sorrow that, in no one of the cases under consideration, does it appear to have occurred to you to try the effect of kind and private remonstrance upon those who had incurred your disapprobation.

Necessity for decisive measures to terminate controversies.

The review, which I have thus been led to take of the long series of controversies in which, during the last two years, you have been engaged with the Judges and other Public Officers of your Government, has convinced me of the absolute necessity of adopting some decisive measures for restoring harmony to the important Settlement under your Command. Considering the peculiar character of the Population of New South Wales, there is probably no other Colony in which the authority of the Government must so entirely depend upon its possessing the respect of the Colonists. These continued dissensions must however directly tend to the subversion of such salutary feeling. The Public interest imperiously demands that these controversies should be immediately terminated.

* Note 110.

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Want of attempts at conciliation both by R. Darling and F. Forbes.

Dissensions a menace to the colony.

Threat to recall governor and judges.

Transcript of part of despatch sent to judges.

Although, in the preceding pages, I have sought to apportion justly the censure due to the several parties engaged in these disputes, there is one remark applicable, I lament to say alike to all. From the commencement to the close of these discussions, I perceive no attempt on either side to conciliate by courtesy and kindness, or to reconcile by mutual concessions and explanations, the jealousies which had unfortunately arisen. The tone of asperity and coldness, which pervades the whole of the voluminous correspondence before me, is much calculated to perpetuate those feelings of distrust and ill-will, which ought never to have prevailed. Unless a very different style of communication be adopted for the future by the parties concerned, all chance of conciliation must be at an end.

It is my earnest hope that my present despatch will be received in time to avert the unfortunate results which might follow from the arrival in this Country of any further controversies between you and the Judges of the Supreme Court. Sensible as I fully am of the difficulties of your situation, and of the industry and zeal with which its arduous duties are performed, and willing as I am to acknowledge the meritorious labors of the Judges, and the ability and learning of the Chief Justice, I cannot find, even in these important services, any adequate compensation for the dangers and misehiefs to which the Colony is exposed by the mutual jealousy and ill-will which has been permitted to take possession of the minds of its principal Officers. I discharge a duty most painful to myself, but one which I consider to be altogether unavoidable in apprizing you that, if unfortunately it should hereafter appear that dissensions, similar in spirit to those which I have been reviewing, still continue to agitate the Colony, I shall feel myself called upon humbly to advise His Majesty to recal the Judges, and at the same time to relieve you from your Command.

I transmit by the present conveyance to the Chief Justice, for the information of himself and of his Colleague, a transcript of so much of my present despatch as I have deemed it proper that they should peruse; and I have apprized them that the communication must be received as being in the strictest sense, Private and Confidential. I have taken this course to obviate the necessity of any direct communication between you and the Judges upon a topic, which might lead to the revival of irritating discussions.

It is my anxious hope that this is the last occasion in which I shall be subjected to the very disagreeable necessity of addressing you in the language of admonition. I am, &c.,

G. Murray.

1828.
30 Aug.

Sir George Murray to Governor Darling.

(Despatch per ship Swiftsure.)

Sir, Downing Street, 30th August, 1828.

With reference to my despatch of this date No. 26, I have to call your attention to some circumstances connected with your Administration of the Government of New South Wales, which I have thought it convenient to reserve for a separate despatch.

Business transacted without reference to executive council.

On referring to the Journals of the Executive Council, which have been transmitted to this Department, I perceive that a large proportion of the most important public business of the Colony is transacted without the advice of that Body. I must recall your very particular attention to the language of your general Instructions* upon this subject, which, I trust, will for the future be much more closely observed.

I am well aware that the dissensions between yourself and Mr. Forbes may have greatly indisposed you to enter into free and full communication with a small body of Councillors, amongst whom he holds so conspicuous a Station. You will

Prohibition of judges as members of executive council.

acquaint Mr. Forbes that His Majesty's Government deem it expedient, upon general principles, and without any reference to his individual character or conduct, that no Judge of the Colony should be a Member of the Executive Council.

You will assure him that, in recommending his retirement from that Office, I am influenced by no failure of respect towards him, but that on the contrary I am happy to relieve him from duties, which under all the circumstances of the Colony he must unavoidably regard as irksome. You will make a provisional

Successor to F. Forbes to be appointed.

appointment, until His Majesty's Pleasure can be known, of a Successor to Mr. Forbes in the Executive Council. For reasons too obvious to require explanation, the individual so selected should not be a relative or a near connection† of your own.

Members of executive council to be sole advisers of governor.

It is necessary for me also to impress upon you the necessity of carrying on the Administration of the Colony under no other advice than that of the Members of the Executive Council. No other gentleman, whatever may be the value of his opinions, must be permitted to be in your confidence upon subjects of Public interest. The resort to unofficial and unauthorised advisers would infallibly prevent the zealous co-operation of the members of Council, and would be open to many other grave objections.

Criticism of remarks made by R. Darling.

I avail myself of this opportunity to signify my regret at the use of some expressions employed (inadvertently I doubt not) in your recent Dispatch, announcing the death of the late Mr. Mills. I am sure that, upon reflection, you will feel that language,

* Note 111. † Note 112.

reflecting in terms of extreme severity on the moral character of an Officer, who terminated his career of Public Service by so calamitous a death, and with unimpeached integrity, was at least unadvised; and I would suggest for your consideration whether it might not be convenient that that portion of the Despatch itself should be cancelled. 1828. 30 Aug.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.
(Despatch No. 109, per ship Boddington.)

Sir, Government House, 30th August, 1828.

I do myself the honor to acknowledge the receipt of your Despatch of the 30th of January last No. 10, directing the payment of the Expences in detail by the Colonial Treasurer and Commissary respectively of those Establishments, which are considered chargeable to the Funds placed in their hands; as likewise the adoption of "Quarterly Warrants" addressed to the Commissary for the payment of the Officers engaged in the care and Control of the Convicts. Instructions received *re* payments.

I beg in consequence to acquaint you that the arrangement, directed by Your Despatch, has been acted on for some time past, and I have further the honor to refer you to the Statements which accompanied my Despatch No. 6 of the 8th of January last, which points out the several Establishments chargeable to the Colonial Treasury and Commissariat respectively.

I do myself the honor to enclose for your information the Copy of a Report from the Auditor, to whom your Despatch of the 30th of January was referred; by which, Sir, you will perceive the extent of the Modifications of the arrangement therein proposed, which do not appear to be inconsistent therewith, but are considered more convenient under the circumstances stated by the Auditor. Transmission of report by auditor.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir, Audit Office, Sydney, 26th August, 1828.

In reply to your Letter No. 553 of the 22nd inst. requiring of me to report, whether there appears any objection to the arrangement, proposed in the Secretary of State's Despatch No. 10 dated 30th January, 1828, as to the preparation of a Quarterly Warrant, addressed to the Commissary for the payment of the Salaries of the Officers engaged in the care and control of the Convicts: I do myself the honor of submitting that, so far from seeing objection to such an arrangement, I consider the directions contained in the Despatch to have been fully anticipated, and to be substantially met by the course, which under the sanction of His Excellency the Governor has been adopted and is at present acted upon, with some slight modifications rendered necessary by the circumstances of the Colony. Anticipation of instructions.

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Modifications to suit local conditions.

The Chief of these modifications are that, instead of a general List of Salaries for the Department of the Superintendent of Convicts, the Police, Gaol, Master Attendant and Medical Establishments, separate Lists for each of these are prepared, and the more to promote accuracy, certified by the Heads of the several Departments, as well as examined before being placed in Warrant; and that, instead of a general List being made up *Quarterly*, the Lists of the Police and Gaol Establishments, in which a number of Individuals are employed, who have been accustomed to receive their Salaries at short intervals, are prepared *Monthly* in order that, on Warrants being granted, they may be enabled to receive the Funds necessary for their Monthly subsistence, without which there is every reason to believe they would be exposed to great inconvenience, most of them having no other means of support.

The preparation of the separate Lists for each Department and the requiring them to be certified by the Heads of each, it will at once be perceived, tends to distinctness and accuracy; and as by the Lists being kept distinct they admit of being originally framed so as to be adapted for Pay Abstracts, to which purpose they are at present applied on the Warrant being granted, a saving is gained of the Paper and Labour which would be required, if a Triplicate General List were to be prepared for Warrant, as well as Separate Pay Lists in Triplicate for each Department, which latter, in the former case, would still be indispensable.

It appears to me therefore that, though by reason of the modifications alluded to, the present course is not literally that pointed out in the Secretary of State's Despatch, it fully meets the Spirit of the directions therein contained; and that Local circumstances and the grounds, above stated, will be considered sufficiently to warrant a continuance of the Modifications which have been hitherto acted upon.

I have, &c.,

WM. LITHGOW, Auditor.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Boddington; acknowledged by under secretary Hay, 19th June, 1829.)

My dear Sir, Sydney, 30th August, 1828.

Delay in reply to despatch.

I am sorry I should have delayed so long replying to your Private Letter of the 17th July, 1827, relative to the two Crown Solicitors, which has been occasioned by a desire to furnish you with the fullest information on the subject; but it has not been in my power to obtain the particulars, which I had been led to expect from Mr. Garling, one of the Gentlemen alluded to in your Letter.

Continuance of crown solicitors unnecessary.

You will perceive by the accompanying Copy of a Letter, addressed to me by the Attorney General, that he does not consider, under the new Arrangement with respect to the Appointment of the Solicitor General, that the continuance of the Crown Solicitors is necessary. But, having mentioned that it was understood by these Gentlemen that their Salary of £300 could not be withdrawn, having been granted as an inducement to them to come out and practice here, rather than with any view to their

Claim of solicitors to permanent salaries.

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immediate Employment by the Government, I made a point of seeing Mr. Garling who promised, in proof of this, to furnish me with a Copy of the Letter, which he received from your Office on leaving England. I have, however, never yet been able to obtain the Letter, and, as he is an extremely indolent, thoughtless Man, I probably never shall, having more than once repeated his promise to send me without delay a Copy of the Letter alluded to.

Claim of solicitors to permanent salaries.

I should myself doubt whether he ever received such Letter as he mentions; but, as Messrs. Moore and Garling appear to have left England in the Year 1814, you will perhaps not find it difficult to ascertain whether they received any promise of permanent Salary and the footing on which they were induced to come to this Country. I remain, &c.,

RA. DARLING.

[Enclosure.]

ATTORNEY-GENERAL BAXTER TO GOVERNOR DARLING.

Sir, York Street, Sydney, 5th February, 1828.

In reply to your Excellency's Enquiry, relative to the continuing the Appointments of two Crown Solicitors, I have the honor to state in reply to it that the two Gentlemen, Mr. Moore and Mr. Garling, usually called Crown Solicitors, never being employed since the Appointment of an Attorney and Solicitor General, I am led to suppose that their Offices at present are quite unnecessary. I feel it right, however, to apprize your Excellency that I have understood these Gentlemen do not consider themselves strictly speaking as Officers of the Government, but that the Sum of £300 per Annum was guaranteed to them in London as an inducement to relinquish their professional pursuits and come out to this Colony, there being at that time no Attornies in the Courts except Prisoners, who had been permitted to practice from necessity, and it being deemed of importance by His Majesty's Government to induce men of Character and respectability to come to the Colony and practise in the Courts. I have, &c.,

Appointments of crown solicitors unnecessary.

A. M. BAXTER, Atty. General.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Boddington.)

Sir, Government House, 30th August, 1828.

Having proposed in the Month of June last, when Mr. McArthur was proceeding to Port Stephen in His Majesty's Ship Rainbow, to avail Myself of the opportunity of placing the Australian Agricultural Company in formal possession of the Land, which they held, by the means of the Honble. Captain Rous as a Commissioner on the part of the Local Government, I informed Mr. McArthur of my intention and intimated my wish of making the necessary arrangements with him before he should leave Sydney. To my surprise, I received a Letter from him declining

Proposal to give possession of land to A.A. company.

Refusal to accept land.

1828. 30 Aug.

to receive the Land on the ground, as well as I recollect (having mislaid the Letter which was a Private one) that it had been injudiciously or improperly selected, and complaining generally of the conduct of Mr. Dawson the Company's Agent, whom the Committee* had lately superseded.

Surprise at action of J. Macarthur.

I have thought it neeessary to apprise you of the eircumstance, which I confess appears to me a little extraordinary, as the Company has long been in possession of the Land, and no objection had hitherto been made either by Mr. McArthur or the Company's Committee.

Land assigned to company according to instructions.

The accompanying Report will shew that the Boundaries of the Grant were formally notified to Government on the 9th of January last by the late Surveyor Genceral and the Company's Agent, as directed by the Instructions,† since which period the Company has been considered in possession of the Land, in the same manner as if it had been delivered over formally, as it would have been, had circumstances permitted when the Report was given in.

I have, &e.,

Ra. Darling.

[Enclosure.]

Boundaries of land grant proposed for A.A. company.

A Description of the Boundaries of the Lands intended to be granted to the Australian Agricultural Company of London.

Situated in the County of .....

Bounded on the South by a line by Compass bearing West eight Statute Miles or Six hundred and forty Chains, commencing on the west Bank of the River Karnah at a mark there set up a few yards below a Reef of Rocks stretching across the River.

On the West by a line bearing North by Compass to the River Manning.

On the North by the South Bank of the River Manning to the Sea.

On the East by the Sea Coast at high Water Mark to the North Head of Port Stephens.

On the South and West by the Waters of the Harbour of Port Stephens, and the River Karnah, to the Mark set up on the west bank of that River.

Comprising one Million, forty eight thousand, Nine hundred and Sixty (1,048,960) Acres of Land (whereof Thirty five thousand Eight hundred and forty (35,840) Acres consist of barren sandy Sea coast (rendered necessary to be included for the more complete definition of the Company's Eastern Boundary) with a Reservation to the Crown of Three hundred and twenty (320) Acres of Land, Surrounding the North Head of Port Stephens.

Given under our Hands at Port Stephens, this Ninth day of January, One thousand, Eight hundred and twenty eight.

J. Oxley, Surv. General.

Witnesses to the Signatures—

Robert Dawson, Pl. Agent to the Aust. Agricl. Company.

Wm Cordeaux, John Stephen, Commissioners of Crown Lands.

* Note 113. † Note 114.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 27, per ship Princess Royal.)

1828.
1 Sept.

Sir, Downing Street, 1st September, 1828.

I have the honor to acquaint you that, in consequence of a representation, which was made by Mr. Gregory Blaxland, of the high rate of duty imposed on the Oil of Rape Seed on its importation into this Country from New South Wales, His Majesty's Government have been induced to lower the rate of duty from £39 18s. to £1 per Tun. I am, &c.,

Reduction of duty on oil of rape seed.

G. MURRAY.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 112, per ship Boddington; acknowledged by Sir George Murray, 5th June, 1829.)

Sir, Government House, 1st September, 1828.

The Attorney and Solicitor General having expressed a wish that their respective duties should be more particularly defined than was perhaps necessary under the former system, it appeared to me best to call on these Gentlemen to state in writing what they themselves considered to be the immediate duties of their Situations. They accordingly did so, and I do myself the honor to enclose herewith Copies of the letters which they addressed to me in consequence, as likewise the copy of a "Minute" which I have drawn up on the subject.

Respective duties of attorney and solicitor general.

You will be pleased to observe that I have left it open to the Governor to call on either in particular cases to prepare Bills or perform any other duties as he may consider necessary, as, although preparing Bills for the Legislative Council may be more properly the Duty of the Attorney than the Solicitor General, there may be cases when it may be more conducive to the Service to employ the latter Officer. I have, &c.,

RA. DARLING.

[Enclosure No. 1a.]

ATTORNEY-GENERAL BAXTER TO GOVERNOR DARLING.

Sir, Sydney, Court House Chambers, 3rd July, 1828.

In consequence of some difference of Opinion, which has arisen with regard to the respective duties which devolve on the Offices of Attorney and Solicitor General, the Solicitor General, Mr. Sampson, and myself have thought it expedient to address separately, without the knowledge of the views contained in each other's letters, communications to your Excellency on the nature of our Appointments for the purpose of receiving your Excellency's direction in giving to each of us what portion of labour it may appear to your Excellency belong to our respective Offices; and, in furtherance of the views contained in the Despatch* of my Lord

Opinion of A. M. Baxter *re* duties of attorney and solicitor general.

* Note 115.

1828.
1 Sept.

Opinion of A. M. Baxter *re* duties of attorney and solicitor general.

Viscount Goderich, announcing the appointment of Mr. Sampson as a Stipendiary Officer of the Crown for this Colony, wherein it is stated that his appointment is made "*with the view of affording the Attorney General that efficient assistance in carrying on the duties of this Office which their extent and importance seem to require.*"

In describing to your Excellency the respective duties of Attorney and Solicitor General of New South Wales, I shall adopt, as far as I can, the English definition of them, although the analogy between the duties of the Crown Officers here, who have to act in every species of labor incidental to the highest as well as the lowest Grade of the profession, is obviously different from the duties of the Crown Officers of England, who are assisted by a number of persons entirely subservient to them in the various Departments of their official duties.

The high and important Office of Attorney General of New South Wales, devolved upon him by Act of Parliament, places him 1st. In loco of a Grand Jury; 2nd. In the situation of Clerk of Arraigns, in as far as relates to preparing and filing the whole of the Criminal Informations presented before the Supreme Court; 3rd. He is public Prosecutor and consequently is the Adviser of Magistrates in all cases of felony and misdemeanour, which are prosecuted by him in the Supreme Court; 4th. He is at present Acting King's Coroner, and in his Office are now filed all Inquisitions of Office.

Viewing the Office of Attorney General as ministerial to the Governor, its duties may be described under the following Heads:— 1st. He is the Officer and Adviser of the Governor; 2nd. the person who drafts all Acts of Council; 3rd. The Conductor of all Government Prosecutions, specially directed by His Excellency in certain cases of Felony, but more especially of misdemeanour, which without such direction he would use a discretion in sending to General or Quarter Sessions in the usual Routine of Business, or in leaving private Individuals to their recourse for the alleged Wrong, by application to the Supreme Court for a Criminal Information.

The most general definition of the Office of Solicitor General, I apprehend to be that of Conductor of the Civil Business on behalf of the Crown in the Supreme Court; 2nd. as an Officer of the Governor, he is Chamber Law Adviser to His Excellency and may at all times be called upon for his Opinion, either conjointly with the Attorney General or separately at the pleasure of the Governor; 3rd. He is Coadjutor of the Attorney General in all cases of Importance, in which the Attorney General may require his assistance in the Criminal Court, and, as Cases sometimes occur which bring the Government Officers before Magistrates, and as the Attorney General is prevented by his Patent from practising as a Solicitor or Attorney, it seems to be the province of the Junior Officer (who is not prevented from practising as an Attorney) to perform whatever duties of Barrister or Attorney may at any time be required in Courts of Inferior Jurisdiction, where the Attorney General, as the Law Adviser of such Courts, might be supposed to exercise over them an undue Influence in their deliberation; 4th. During the illness or absence of the Attorney General, the Solicitor General to perform the duties of his Office; in like manner, the Attorney General being called upon to perform the whole official duties of the Solicitor General during his illness or absence.

1828.
1 Sept.

Opinion of A. M. Baxter *re* duties of attorney and solicitor general.

The result of the above subdivisions of our Employment, that I have respectfully the honor of recommending to your Excellency's consideration, is that the several duties undermentioned should devolve on and be considered peculiar to the Offices of Attorney and Solicitor General respectively.

The Attorney General to draw all the Informations; To conduct all the prosecutions in the Criminal Court; To draw all Acts of Council; To advise the Governor, when required;

The Solicitor General to conduct the Civil Business of the Crown (If, like the Solicitor General of Van Diemen's Land, he is Crown Solicitor); The Solicitor General to assist the Magistrates and other subordinate Officers of the Government; and To peruse the Depositions taken before Magistrates on important occasions and to advise whether the Magistrates should seek further evidence (during this time, the Prisoners to be remanded for further Examinations).

Each to perform the other's public duties reciprocally, in case of absence or illness; Each to be subject to the Governor's special Order, requiring Opinions, or directing prosecutions to be conducted or other public business to be performed by them conjointly.

I have, &c.,
A. M. Baxter.

[Enclosure No. 1b.]

Solicitor-General Sampson to Governor Darling.

Sir, Court House Chambers, Sydney, 23rd June, 1828.

Opinion of J. Sampson *re* duties of attorney and solicitor general.

I beg leave to apologise for troubling Your Excellency on the present occasion; but, as the subject is of a nature which involves a question intimately connected with the public Service, I have thought it expedient to lay the case before Your Excellency.

The object of my present application is to submit, to the consideration of Your Excellency, the expediency of appropriating the duties of the respective Offices of Attorney and Solicitor General, with a view to limit the responsibility of each; there being at present no definite and specified line of duty marked out as the peculiar province of either of these Officers, it must be evident to your Excellency that the present arrangement is not only prejudicial to the public Service, but likewise of great individual inconvenience, from the circumstance that neither of these Officers are singly responsible in any case of delay which may occur in the course of public business, and also that a heavy weight of labour must necessarily press upon one of them, should his Colleague hold back or refuse to take upon himself a proportionate share of the more difficult and weighty part of the business, upon the plea that it does not fall within his department. With a view to facilitate the object proposed, I would beg leave to suggest (by analogy to the practice in England, though with such limitations as the circumstances of the Colony may be deemed to require) that the Department of Attorney General includes all such Criminal Prosecutions as circumstances may call for, he being empowered to require the assistance of the Solicitor General in any case of labour and difficulty. Likewise advising on such Cases as involve points of a criminal nature, unless your Excellency should require the joint opinion of both, or, I would beg to submit, that it should remain with your Excellency to give directions that Letters should be addressed to one or other or to both, as you may deem most fit.

1828.
1 Sept.

Opinion of J. Sampson *re* duties of attorney and solicitor general.

The duty of the Solicitor General is to attend to all cases connected with the Revenue, such as issuing Extents, bringing actions for the recovery of debts due to the Crown, and also conducting all proceedings in the Ecclesiastical and Admiralty Courts. With respect to the drafting of Bills to be laid before the Legislative Council, I forbear expressing any opinion, being desirous of adopting such arrangements as your Excellency may propose on that as well as on every other subject. I have, &c.,

JOHN SAMPSON.

[Enclosure No. 2.]

MINUTE.

Definition of duties of attorney and solicitor general.

IT having been represented by the Attorney and Solicitor General that it would facilitate the transaction of the Public Business, if the respective duties of those Officers were defined more accurately than they appear to be at present, and, having consulted those Gentlemen on the subject, I have approved of the following being adopted as the line generally to be observed in this respect, Vizt.:—

Attorney General.

1st. To attend to all Criminal prosecutions and matters connected therewith.

2nd. To answer all questions on points of Law, which may be referred to him by the Governor or Magistrates.

3rd. To prepare Acts of Council, Proclamations, and all other papers and Documents intended for publication, when required by the Governor.

Solicitor General.

1st. To conduct all Civil Prosecutions, and other business under that head.

2nd. To conduct all Proceedings in the Ecclesiastical and Admiralty Courts;

3rd. To prepare Bonds, Contracts, etc.; and

4th. To perform all such other matters as he shall be required by the Governor.

It is at the same time to be understood, in the case of either Officer being absent, or there being any particular business to be transacted, that they will mutually act for and assist each other; and lastly,

Whenever a letter shall be addressed to the Attorney and Solicitor Generals jointly, requiring their opinion, it is expected that the reply will be signed by both, except in the case of their differing, when they will state their opinions separately.

RA. DARLING.

Sydney, 25th August, 1828.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 113, per ship Boddington; acknowledged by Sir George Murray, 16th April, 1829.)

Sir, Government House, 1 September, 1828.

Charter of ship *Borodino* to carry convicts.

I do myself the honor to acquaint you that the accumulation of Prisoners under Sentence of Transportation to the Penal Settlements, occasioned by the constant employment of the

1828.
1 Sept.

Government Vessels in supplying the Settlements and relieving the Troops on the Northern Coast, has obliged me to avail myself of the Ship *Borodino,* proceeding on her Voyage through Torres Straits, to send *160* Prisoners to Moreton Bay, for whose passage and that of the Guard with a supply of Commissariat Stores the Sum of *£210* has been paid. I therefore request the necessary Authority for this sum being charged in the public Accounts, the Expenditure being necessary to the convenience of the public Service.

Charter of ship *Borodino* to carry convicts.

2nd. I avail myself of this opportunity of reporting that I have authorised the Cutter "Mermaid" receiving a thorough repair, the Hull of the Vessel being Valuable. I beg to enclose the Copies of two letters from the Master Attendant on this subject, which will shew I was anxious to avoid the Expense if possible; but the necessity of discontinuing the Schooner Alligator, which was no longer fit to proceed to Sea, rendered the repair of the "Mermaid" or the purchase of another Vessel for the Service of the Government indispensable. I therefore request I may be furnished with authority to charge the expense of refitting the Mermaid in the public accounts.

Repairs to cutter *Mermaid.*

Condemnation of schooner *Alligator.*

I have, &c.,
RA. DARLING.

[Enclosures.]

[*These letters have been omitted as they merely detailed the probable expenditure on partial and full repairs to the cutter "Mermaid."*]

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Boddington.)

Sir, Government House, 1st September, 1828.

I take the liberty of enclosing to you the draft of an Amended Memorandum, with which you will perhaps think it desirable Persons coming out as Settlers should be furnished at your Office, instead of that* which they have hitherto received, in the event of the Propositions which I have had the honor to submit to the Secretary of State in my Despatch No. 93 being adopted.

Proposed memorandum for information of settlers.

You will observe that the accompanying Memorandum contains every essential information, differing from the former only in the omission of such formalities as are not important or are liable to change according to circumstances.

I have, &c.,
RA. DARLING.

* Note 116.

1828.
1 Sept.

Memorandum *re* terms for land grants to settlers.

[Enclosure.]

Terms upon which Land is granted to Settlers in New South Wales.

For the information of Persons proceeding to New South Wales as Settlers, it has been deemed expedient to prepare the following Summary of the Rules, which His Majesty's Government have thought fit to lay down for regulating the Grants of Land in that Colony.

Grants without purchase.

1st. Persons, desirous of obtaining Land without Purchase, will address themselves to the Governor.

2nd. When the Governor shall be satisfied of the character and respectability of the applicant, and that the amount of capital, which he can command and intends *immediately* to apply to Agricultural purposes, has been duly ascertained, he will receive the necessary authority to select a Grant of Land proportionate in extent to the means he possesses.

3rd. Stock of every description, implements of Husbandry and other Articles, which may be applicable to Agricultural purposes, are to be considered as Capital, *provided they shall have been imported into the Colony by the Applicant*, as likewise any Half Pay or Pension which the applicant may receive from Government calculated at Seven Years' purchase.

4th. Persons receiving authority to select land are to make their selection within certain prescribed Boundaries.

5th. If the selection made be approved by the Governor, the applicant will receive a written authority to take possession of the Land, and at the expiration of Seven Years a Deed of Grant will be delivered to the Grantee.

6th. Lands to be granted in Square Miles in the proportion of one square mile or 640 acres for every £500 Sterling of Capital, which the applicant can *immediately* command, to the extent of Four Square Miles or 2,560 acres, which is the utmost that can be granted without purchase.

7th. No Grant to be made of less than 320 acres or half a square mile.

8th. A Quit Rent of Two pence per acre will be levied on all such Grants; but the payment of such quit rent will not commence until the expiration of the first seven years from the date of the Grantee receiving authority to take possession of the Land.

9. The Quit Rent will be redeemable at 20 years' purchase, at any time within twenty years after the commencement of the period of paying the Quit Rent.

10. Grantees without purchase must, within seven years, expend in the improvement of their Land a sum equal to its value, the land being estimated at 3s. 4d. an acre, in default of which the land will be forfeited to the Crown.

Grants by purchase.

11. Persons wishing to Purchase Lands must transmit a written application in a prescribed form to the Colonial Secretary.

12. The Lands selected by Individuals, who have received the Governor's authority to purchase, will be advertised for Sale for two months, and will then be sold to the highest bidder.

13. The Lands, so put up for sale, will be subject to a Quit Rent of Two pence per acre, redeemable at any time within twenty years from the date of Sale at 20 years' purchase.

1828.
1 Sept.

Memorandum *re* terms for land grants to settlers.

14. The Sum, bid over and above the annual Quit Rent, must be paid in one Sum within Two months from the day of sale; previously to which, the purchaser will not be put in possession of the Land; and, in case of payment not being made within the prescribed period, the Sale will be considered void.

15. The Land will generally be put up to sale in Lots of three square miles or 1,920 acres, and no individual will be allowed to purchase more than 9,600 acres.

Reservations.

16. The Crown reserves to itself the right of making and constructing such roads and bridges, as may be necessary for public purposes on all Lands to be granted, whether by or without purchase, and also to such indigenous Timber, Stone and other Material, the produce of the Land, as may be required for making and keeping the said Roads and Bridges in repair, and for any other public works. The Crown further reserves to itself all Mines of precious metals.

17. Persons, receiving Land either by or without Purchase, will not be allowed to alienate the same for a period of Seven Years after they shall have received authority to take possession.

18. The personal residence of Individuals on the Land, which they may obtain by Grant or Purchase, or the employment on the spot of a free Overseer of approved character and respectability will be made an indispensable condition.

19. Persons under the Age of 19 years are not considered eligible to receive a Grant of Land either by or without purchase.

Governor Darling to Under Secretary Hay.

(Despatch per ship Boddington.)

Sir, Government House, 1st September, 1828.

Unreliability of convict clerks.

I trouble you with the enclosed Extract of a Letter from the Principal Superintendent of Convicts, with a view principally of pointing out how impossible it is to place any dependance on the Convict Clerks. It is no longer ago than March last, that I reported in my Despatch No. 57 the arrangements I had made with respect to the Clerks in the Office of the Superintendent of Convicts, when Mr. Hely, having selected Individuals in whom he thought he could confide, it was proposed with a view to economy that three prisoners should be continued; you will now perceive that one of these, a man of the name of Lowe, whom Mr. Hely had taken much pains in instructing as to his immediate duties, has proved as unworthy as the others who had been previously dismissed. I have accordingly sent him to work on the roads and have been under the necessity of authorising the employment of a free clerk, T. Hovenden, in his room, which I hope will be approved of.

Appointment of T. Hovenden.

I have, &c.,

Ra. Darling.

1828.
1 Sept.

[Enclosure.]

EXTRACT of a Letter from the Principal Superintendent of Convicts to the Colonial Secretary dated 7th August, 1828.

Request for employment of T. Hovenden as clerk.

"ADVERTING to your letter addressed to me under date the 23rd Ultimo, directing that the prisoner named in the margin.* at present employed as a Clerk in this Office, should be sent to the roads. I have the honor to request that you will please to submit to the Governor the fact that there is no prisoner clerk at present disposable who would suit me; and, as I am anxious to avoid the chances of the frequent changes consequent upon the employment of Clerks of that class, I beg to propose for His Excellency's approval the name of Mr. T. Hovenden (a free and respectable young man recently arrived in the Colony) as a fit and proper person for the appointment now vacant, which the encreasing business of the Office will not permit me to lose time in filling. Should His Excellency further approve, I beg to suggest that Mr. Hovenden should be employed but *pro tempore*, until his abilities and industry have sustained a fair trial."

FREDK. A. HELY.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Boddington.)

My dear Sir, Sydney, 1st September, 1828.

Revenue collected by customs.

I send you the accompanying Copy of a Statement of the Revenue collected by the Customs, as it shews an improvement in that Branch since the commencement of the present Year of nearly £3,000 per Quarter, taking the Average of the last two Quarters.

I remain, &c.,

RA. DARLING.

[Enclosure.]

Statement of revenue.

RETURN of Sums collected Monthly and Quarterly at the Custom House, Sydney, from 6th April, 1827, to 30th June, 1828, inclusive.

1827.	Monthly. £ s. d.	Quarterly. £ s. d.	
April	5,587 0 4		
May	4,966 19 3½		
June	3,992 3 5	14,546 3 0½	
July	4,524 19 4½		
August	4,912 13 9		
September	4,966 11 3½	14,404 4 5	
October	4,863 12 5½		
November	4,619 15 0		
December	4,730 16 6	14,214 3 11½	
			£43,164 11 5
1828.			
January	6,709 6 7½		
February	5,280 17 7½		
March	5,367 15 6	17,357 19 9	
April	5,246 13 10½		
May	6,430 8 9		
June	4,809 15 1	16,486 17 8½	
			£33,844 17 5½
		Total	£77,009 8 10½

F. ROSSI, A'g Collector.

Custom House, Sydney, 9th July, 1828.

* *Marginal note.*—Geo. A. Lowe, Albion.

GOVERNOR DARLING TO UNDER SECRETARY HAY. 1828. 1 Sept.

(Despatch marked "Private and Confidential." per ship Boddington.)

My dear Sir, Sydney, 1st September, 1828.

I have scarcely a moment to acknowledge the receipt of your private Letter of the 14th February last, but I cannot close my Despatches without saying a few words to you on the subject of it. Despatch acknowledged.

I should indeed be surprized if, after all that has occurred, Mr. Huskisson were to determine not to remove Mr. Forbes, as your Letter would lead me to expect. I have been abused and calumniated since the close of the Year 1826 by the Newspapers, and I have shewn beyond all doubt that Mr. Forbes and his Associates ministered to this Abuse and these Calumnies, studiously avoiding as I have done throughout to commit His Majesty's Government by any Act of intemperance on my part. Still Mr. Forbes's power to be mischievous is merely to be placed under greater restraint. I earnestly entreat you not to think of admonishing or reprimanding him; it would be better to let the matter rest, as he would only consider such a course on the part of the Government as an acknowledgment of its weakness. It must remain with Mr. Huskisson, who is responsible for the *good Government* of the Colony, to determine whether Mr. Forbes's services or mine are more essential to this important object; and, in doing so, I am sure he will do me the justice to advert* to Mr. Forbes's proceedings as a prominent Member of this Government in the Case of the Stamp Act; His Countenancing and Associating with Dr. Wardell, the Author of the Calumnies above alluded to, during the period of their publication, which requires no further proof than the Dinner given by Mr. Forbes to Captain Dundas of the Navy in December, 1826, of which you have been already informed; as likewise to his *veracious* Statement on the Appointment of Mr. John Stephen, as Registrar of the Supreme Court, with my Remarks thereon. If I had time, many other instances might be adduced. You may be sure he will not "stick at trifles" in carrying his point. He is too sage a Politician not to have been aware of the importance of attaching Judge Dowling to his Cause, and therefore did not hesitate a moment, as I informed you at the time, in adding the Judge's private Clerk* to the Establishment of the Supreme Court with a Salary of £200 a Year, which was no doubt a matter of great convenience to Mr. Dowling, and duly appreciated as a favor on the part of the Chief Justice.

Surprise at non-removal of F. Forbes.

Objections to any censure on F. Forbes.

Choice between R. Darling and F. Forbes.

Instances of conduct of F. Forbes.

Conciliation of J. Dowling by F. Forbes.

That he has prostituted his public Situation to serve his private Ends by shielding his friend Doctor Douglass will be

* Note 117.

1828. 1 Sept. Statements anticipated from F. Forbes.

seen by Mr. Marsden's Pamphlet.* I am aware you will receive a Volume on this subject, as he has been busily engaged for some time past preparing Counter Statements; and he will succeed, if human ingenuity can prevail against truth and honesty.

I remain, &c.,
RA. DARLING.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 114, per ship Australia; acknowledged by Sir George Murray, 16th April, 1829.)

3 Sept. Advances by W. Lithgow to clerks.

Sir, Government House, 3rd September, 1828.

I do myself the honor to submit for your consideration the accompanying letter and Enclosures, respecting certain advances made by the Auditor to sundry individuals employed temporarily in his Office as Clerks; and I beg to state, Sir, that I have authorized the issue of the Sum required by the Auditor, "Vizt.," *£171 15s. 8d.*, subject to your approbation. I have done this with the less hesitation, feeling that no one can be more Zealous than Mr. Lithgow in keeping the Expenditure within due limits, and that he could have been influenced only by a desire of rendering his office competent to the duties which attach to it, and which, considering the disorganised state of the Departments and Establishments of this Government some time back, appears of more real importance than any temporary Expense that may have been incurred in endeavouring to establish regularity and good order. I have, &c.,

RA. DARLING.

[Enclosure.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Request for approval of payments for extra clerks.

Sir, Audit Office, Sydney, 31st May, 1828.

I do myself the honor of herewith enclosing an Abstract of Sums, paid by me as Remuneration for the Services of Extra Clerks temporarily employed in this Office from 7th June, 1825, to 4th March, 1827, amounting to £171 15s. 8d. Sterling; and beg leave to request that you would have the goodness to solicit the sanction of His Excellency the Governor to authorize my including the same in the Abstract of "Unfixed Contingencies" of this Office under the Head of "Arrears for previous Years."

In addition to the explanation annexed to the Abstract, I beg leave to state that the Clerks alluded to were temporarily employed by me, at a time when the ordinary establishment was totally inadequate to the Duties of the Office, with a view to make trial of their fitness for their Situations, and were paid by me, from time to time, such moderate Remuneration for their Services as they appeared to have earned; taking care that the rate of the same should be rather under than above what might be considered to be justly reasonable.

Mr. Foley was transferred to assist in the Duties of the Office by the late Major Ovens, Chief Engineer, while Private Secretary

* Note 46.

1828.
3 Sept.

Request for approval of payments for extra clerks.

to Governor Sir Thomas Brisbane; and Mr. Bruce had for a considerable time been employed in his Office, where he had acquired experience, and was found to be diligent and useful, more particularly as a Copyist.

Mr. D. McLeod had not been previously employed, and had not therefore acquired, on entering the Office, the experience necessary to qualify him for his Situation, so as to give him a claim at first to any considerable Salary; and, finding the Sum paid him insufficient to meet his expenses in Sydney, he in consequence retired to the Country. He is now employed as Clerk to the Court of Magistrates at Liverpool on a Salary of £120 per annum.

The delay, in applying for Authority to charge the amount of the enclosed Abstract, was owing partly to my not having till lately obtained the necessary Receipts, and to a wish, by bringing the expenses under consideration in Aggregate, to present the Total Charge and the grounds of making it in a more clear and comprehensive point of view, as well as to avoid causing inconvenience by separate applications.

I would further beg leave to explain that my not having recommended the Individuals above named for permanent Employment on fixed Salaries arose from my wish to procure the Services of more efficient Clerks; and that, though under the Regulations now in force the incurring Expenses excepting on an emergency, unless under previous written authority, is liable to objection, at the time these Individuals were temporarily employed, it was consistent with the usual practice to employ such extra assistance as might appear indispensable, and subsequently to solicit a Warrant to defray the Expense.

I have, &c.,

Wm. Lithgow, Audr.

[Sub-enclosure.]

Abstract of sums paid as salaries to extra clerks.

Abstract of Sums paid as Salaries to Extra Clerks temporarily employed in the Audit Office, from the 7th June, 1825, to the 4th March, 1827, inclusively.

To Amount paid J. F. Foley, Salary as Extra Clerk, averaging nearly 1s. 8d. per Diem, as per Receipt; No. of Voucher, 1; From 7 June To 31 Decemr., Amount, £45 16s.

To Amount paid J. F. Foley, Salary as Extra Clerk, averaging nearly 1s. 8d. per Diem, as per Receipt; No. of Voucher, 2; From 1 Jany. To 4 March; Amount, £7.

To Amount paid to Mr. Donald McLeod on account of his Salary, as Extra Clerk as per Receipt; No. of Voucher, 3; From 1 Decemr. To 25 Feby.; Amount, £52 6s. 4d.

To Amount paid Mr. James Geo. Bruce Salary as Extra Clerk at £80 pr. Annum as p. Receipt; No. of Voucher, 4; From 1 April To 31 Decemr.; Amount, £60.

To Amount paid Mr. James Geo. Bruce Salary as Extra Clerk at £80 pr. Annum as p. Receipt; No. of Voucher, 5; From 1 Janry. To 12 April; Amount, £6 13s. 4d.

Total Amount, £171 15s. 8d.

I Certify that the above named Individuals were actually employed as Temporary Clerks in the Audit Office during the above mentioned Periods, and that they were severally paid by me the sums opposite to their respective Names, which have not hitherto been charged to the Public; that their Services were necessarily

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and indispensably required for carrying on the Public Duties of the Office, and that the Salaries paid them the very lowest necessary for their Subsistence and decent personal appearance; and in my opinion formed rather an inadequate remuneration for their Services than otherwise.

Establishment of audit office.

It may be proper to explain that from the 7th June, 1825, to the 4th March, 1827, the first and last dates mentioned, the Establishment of the Audit Office, exclusively of the above named Individuals, was as follows, vizt.:—

1 Auditor at £100 per ann. from 7th June, 1825, to 4th March, 1827	£174	4	11
1 Clerk from 1st June, 1825, to 30th Novr., 1826, at £156 per ann.	234	0	0
1 do from 1st July, 1825, to 17th March, 1826, at £25 pr. ann.	17	16	1
1 do from 1 January to 4th March, 1827, at 1s. 3d. pr. diem	3	18	9
Add the foregoing Amount	171	15	8
Total Amount	£601	15	5

Aggregate expenditure on salaries.

So that, even including the Amount referred to as not yet charged to the Public, the Aggregate Expense of the Salaries of the Establishment for the period specified would be no more than £601 15s. 5d., or at the rate of about £364 per annum, which, it is hoped, will not appear to have been an unreasonable charge.

WM. LITHGOW, Audr.

Audit Office, Sydney, 31st May, 1828.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Australia.)

Sir, Government House, 3rd September, 1828.

Requisition for agricultural implements.

Immediately upon the receipt of your letter of the 30th June, 1827, I called upon the heads of the several public Departments concerned, to furnish the information required by the Secretary of the Board of Ordnance, in respect to certain articles of stores intended for the use of this Government, and I now do myself the honor to forward an Abstract of the Explauations which have been furnished by these Officers respectively, on the several points of enquiry. I have, &c.,

RA. DARLING.

[Enclosure.]

LIST of Agricultural Implements required by the General Requisition, transmitted to England in the year 1826, and alluded to in the Letter addressed to R. W. Hay, Esqr., from the Ordinance Office on 4th May, 1827. Being intended for Models, the whole ought to be of the best, strongest, and simplest construction, the Colonial labourers being in general careless, and the Workmen unskillful. Scotch Forms and Makers are recommended.

THRESHING Machines of two or four Horse power to be moved by *Horses*, with improved apparatus for Yoking; Ditto, Ditto, with additional apparatus, to allow of their being moved by *Wind*, when practicable; Ditto, Ditto, to be moved by *Oxen*. If made with vertical wheels, they should be such, that the animals can be placed

on them instead of *in* them; Grinding and Dressing Machines, to be attached to each of the foregoing; Hand threshing machines; Hand Mills for Grinding and Dressing Flour; Brusing Machines, with Fluted Rollers; Machines for separating maize from the cob; Double Fanners, or Winnowing Machines; Smut Machines; Chaff Cutters; Turnip Sheers; Brewing Machines; Drill Machines for Sowing Wheat; Broad Cast sowing Machines for small seeds; Turnip Barrow Drills, with one Wheel, with Rollers; Ditto, two wheels for one row, with Rollers; Ditto, two do for two rows, with Rollers; Bean Drill; Ploughs, Vizt.: Small swing with chain, with wooden beams and also with iron ones; Do without chain, with wooden beams and also with iron ones; English swing, with wooden beams and also with iron ones; Tarn Wrest swing, with wooden beams and also with iron ones; Double Mould Board, with wooden beams and also with iron ones; Trenching, with wooden beams and also with iron ones; Skrin Coulter, with wooden beams and also with iron ones; Scotch with Wheels; One Horse Plough; Grubbers; Scarifiers, or Cultivators; Do of a lighter construction; Horse-Hoes; Expanding do; Rhomboidal Harrows, wooden and Iron; Ditto, attached to a Beam; Triangular do; Corn Rakes, Jointed and unjointed; Scutch Rakes, Jointed and unjointed; Hay tedding Machines; Waggons; Scotch one-Horse Carts; Ditto, 2 Horse Ditto with apparatus for compelling both Horses to draw equally; Ditto, for 2 Horses abreast; Draining Spades and other draining Tools; Hainault Scythes; Cradle Scythes; Straw-rope Twisting Machines; Flexible Tubes for hoven Cattle; Ditto for Sheep; Imperial Corn Measures, drum and flat.

1828. 3 Sept. Requisition for agricultural implements.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 115, per ship Australia.)

Sir, Government House, 4th September, 1828. 4 Sept.

I take the liberty of drawing your attention to the Amendments, which will be necessary in my general Instructions* with respect to the Sale and granting the Crown Lands, in the event of the suggestions contained in my Despatch No. 93 of the present Year being adopted. In order to bring the several points at once under your view, I have thought it best to select those clauses or Paragraphs of the Instructions (dated the 17th of July, 1825), which would require alteration; and I have accordingly annexed "observations," as will be seen by the Enclosure, in explanation of the particular passages, so that you may be the better enabled to judge, Sir, whether it will be necessary to substitute a fresh set of Instructions, or that orders conveyed in the form of a public Despatch will be sufficient to authorise the Alterations proposed.

Amendments necessary in instructions *re* crown lands.

I have, &c.,

Ra. Darling.

[Enclosure.]

Extract from The King's Instructions to the Governor of New South Wales, dated the 17th July, 1825, on the subject of the granting and sale of Crown Lands, with "*observations*" thereon.

Observations on instructions *re* crown lands.

Instructions.—Par. 28. Directs that an average valuation of the Lands in each Parish shall be made by the Commissioners.

Average valuation of lands in parish.

N.B.—Two valuations in each Parish are authorised by the Secretary of State's Despatch, dated 2nd April, 1827, No. 29, Par. 9.

Observations.—It is proposed that a general average value shall be made of all the Unsurveyed Lands within the Boundaries in which Settlers are allowed to select land, until the survey and valuation by the Commissioners shall be brought up.

* Note 88.

1828. 4 Sept.

Clergy and school estates.

Instructions.—Par. 32. Directs that the Land to be set apart as the Clergy and School Estates shall as far as possible be in one continuous Tract.

Observations.—The Secretary of State's despatch above referred to, Par. 8, permits of $\frac{1}{7}$ of *each Parish* being set apart for the Clergy and School Estates.

Sale of lands.

Instructions.—Par. 35. Directs that the Lands shall be advertised for *one* month, previous to being put up for Sale, and that they be sold by Tender.

Observations.—The Period of one month is totally insufficient. Less than two months would not allow of Individuals in distant parts receiving due information of the sale, and the Secretary of State's despatch, No. 13 dated the 9th November, 1827, approves of the Lands being sold by *Auction* instead of Tender.

Quit rent on lands sold.

Instructions.—Par. 37. Directs that Lands sold shall pay a Pepper Corn Rent.

Observations.—It is proposed that a general average Quit Rent of 2d. per acre shall be paid on all Lands, whether granted or sold, and that the excess only above 3s. 4d. (being the average valuation) of which 2d. is the Interest at 5 per Cent. shall be paid down.

Discount proposed on prompt payments.

Instructions.—Par. 38. Authorises a *Discount* on ready Money payments for Land Purchased.

Observations.—It is proposed that the sum, bid above 3s. 4d. per acre, shall be paid within two months. It will be seen, by my despatch No. 93 and the documents which accompany it, that this is important.

Rebate proposed for maintenance of convicts.

Instructions.—Par. 41. Authorises the repayment of the Purchase money, on the Purchaser making it appear that he has saved to the Government ten times the amount of the Purchase Money by the maintenance of Convicts.

N.B.—This is considered by the Council quite unnecessary as no Individual keeps a Convict a moment longer than he requires his Services.

Observations.—It is approved in the Secretary of State's despatch of 2nd April, 1827, No. 29, Par. 2, that no allowance be made to the Settlers on account of the maintenance of Convicts.

Free grants.

Instructions.—Par. 42. Directs that lands may be granted if they remain unsold for three years after having been put up for Sale.

Observations.—The Secretary of State's Despatch above referred to, Par. 1, approves of Grantees selecting their Land without being obliged to wait until the Land has been put up for sale.

Regulations for improvement of lands sold.

Instructions.—Par. 43. That Purchasers shall prove that they are able and do intend to lay out one half of the estimated Value of the land applied for.

Observations.—It is suggested that this Article be omitted as the Provisions recommended in the New Regulations that Purchasers pay a Quit Rent the same as Grantees, and not be allowed to dispose of the Land purchased previous to the expiration of 7 Years will more effectually provide for the improvement of the Land than any other means that can be devised.

Date for payment of quit rent.

Instructions.—Par. 45. Directs that the payment of Quit Rent shall commence, at the expiration of Seven Years next succeeding the date and execution of the Grant, and that the *Grantee* shall expend $\frac{1}{3}$ of the Value within 7 Years.

Observations.—It is proposed that the payment of *Quit Rent* on Lands *granted* shall commence at the expiration of seven years

from the date of the authority to take possession, and that the Grantee shall be required to expend a Sum equal to the full value of the Land. 1828. 4 Sept.

Instructions.—Par. 46. Authorises an allowance in redeeming the Quit Rent, to be made on account of the Maintenance of Convicts. Rebate for maintenance of convicts.

Observations.—See Observation on Paragraph No. 41 above.

Instructions.—48. Directs that the Quit Rent on additional Grants shall commence on the execution of the Grant. Quit rent on additional grants.

Observations.—It is proposed that the Quit Rent shall on this, as in other cases, commence from the date of the authority to take possession.

Governor Darling to Right Hon. W. Huskisson.

(Despatch marked "Separate," per ship Australia; acknowledged by Sir George Murray, 28th August, 1829.)

Sir, Sydney, 4th September, 1828.

I have the honor to acquaint you, in reference to my Despatch No. 15 of the 11th February last, that I have authorised a Reserve of two Square Miles of Land or 1,280 acres to Miss Cowper, the Daughter of the Reverend William Cowper, on her Marriage, subject, Sir, to your approbation. Reserve of land for daughter of Revd. W. Cowper as marriage portion.

I have had a double object in this; to mark my approbation of the manner in which Mr. Cowper, who is a very exemplary Man, has confined himself to the zealous discharge of his duties, which may not be unimportant with reference to the late proceedings of some of the Chaplains; the other, hoping, should you approve of the measure being extended to the Daughters of Men of Respectability, whose Conduct gives them a Claim to the support of the Government, that it might have the effect of removing the impediment to matrimony, which appears to have existed here.

There are at this moment several very large families of Daughters in the Colony, who, though highly respectable in Conduct and Connexion, possessing no property, do not appear likely ever to get married, while there are also many young Settlers, who declare their inability to maintain a Wife who has no means of her own. The addition of 1,300 Acres of Land to a Man, who has already received all he has a claim to and which he could not obtain except by Purchase, will it is hoped act as an inducement to the Young Settlers to marry, as it cannot fail to prove in every point of view beneficial to the Colony and to the Community in general. Proposed land grants as marriage portions.

I should further propose confining these Grants to such young Ladies as marry Settlers and Persons permanently resident in the Colony, and not to extend it to those who unite themselves to other Individuals.

1828. 4 Sept. I beg, Sir, to be permitted to recommend this measure to your consideration and to suggest that the Land be settled exclusively on the Lady, so as to insure her having the Benefit of it during her Life. I have, &c.,

Ra. Darling.

Governor Darling to Under Secretary Hay.

(Despatch per ship Australia; acknowledged by under secretary Hay, 1st January, 1830.)

Dear Sir, Sydney, 4th September, 1828.

Report *re* conduct of Revd. F. Wilkinson.

Since forwarding my Despatch of the 2nd of last Month, marked "Separate," with Copies of a Communication made to the Bishop of the Diocese, being a Representation of Archdeacon Scott's with respect to the Conduct of the Reverend Mr. Wilkinson, and the Correspondence connected therewith, I have received from the Archdeacon the Copy of a Letter, which Mr. Wilkinson has forwarded to the Ecclesiastical Board in London, dated the 27th August last, on the subject of his grievances.

Being exceedingly pressed for time preparing and completing my Despatches for this opportunity, it is not in my power at this moment to forward a Copy of the Letter alluded to, which is of considerable length; but this appears of the less consequence, as the Letter is similar to that which Mr. Wilkinson addressed to me, dated the 12th of July last, which, together with my reply dated the 30th of that Month, form part of the Enclosures with my Separate Despatch of the 2nd August above referred to.

Statement by Revd. F. Wilkinson *re* land grant to A. Macleay.

Mr. Wilkinson has, however, thought proper to introduce some Remarks in his Letter to the Ecclesiastical Board, that do not appear in the Correspondence, with respect to a piece of land which Mr. Macleay is in possession of.

I beg leave to enclose an Extract of Mr. Wilkinson's Letter, containing the Remarks above alluded to, and a Copy of Mr. Macleay's Application for the Land in Question, with my Observations and Orders written on the Original Application in my own Hand, as likewise Mr. Oxley's Report, stating that the Land was disposable, not being required for any public purpose. It will be seen by my first Memorandum on Mr. Macleay's Letter that there was no desire on my part that he should receive this Land; and it will be observed by my second Memorandum that, even after the Surveyor General's Report, this 1,500 Acres was not given to Mr. McLeay in part of his Grant (as Mr. Wilkinson would wish it to be understood) as an Officer of the Government, but that he was permitted to rent it with a view to purchase. It is, therefore, evident, whatever the Value of the Land may be,

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that Mr. Macleay will have to pay for the same as any other Individual, who might have received Authority to purchase it under the Regulations.

Reply to criticism of Revd. F. Wilkinson.

It will be perceived that Mr. Wilkinson is not very sparing of his Censure of me in speaking of "the Reserves, which have been made by former Governors, now laying waste and useless, etca." It was in reply to this that I observed, his Remarks could only have proceeded from a want of information on his part; and it will be sufficient to refer to the King's Instructions to shew that there is not an Acre of Land, which can at this moment be given up to the Church without deviating from the Instructions, inasmuch as the measures necessary thereto have not been completed, that is the Counties have not been proclaimed, or surveyed and valued to permit of their being proclaimed, which are necessary preliminaries. Still Mr. Wilkinson *like an ignorant Pedagogue** presumes to censure the Government and the public Authorities, when it is evident he is totally uninformed on the subject on which he writes.

Character of Revd. F. Wilkinson.

As I have taken up this subject, I am desirous of shewing more fully the nature of Mr. Wilkinson's Character, and how he is connected politically with certain Individuals here, whose Conduct has been marked with Opposition to the Government.

Motion by F. Forbes re church estates.

I enclose with this view a Copy of a "Motion," made by the Chief Justice at the late Quarterly Court of the Corporation, with reference to the subject of Mr. Wilkinson's Representations as to the Trustees not having been yet in possession of the Church Lands as directed by the public Instructions. There is nothing objectionable in the "Motion" itself, further than as shewing a Connection between the Proceedings of Mr. Forbes and Mr. Wilkinson. You will probably recollect that I mentioned in a Letter to Mr. Secretary Huskisson, when I intimated my intention some time since of bringing Captain Robison of the Royal Veterans to a Court Martial, that I had understood Mr. Forbes had assisted him in preparing the Charges, which he had sent Home against me; and further, to shew the connection which exists between Mr. Wilkinson and Captain Robison, who is now on his Trial, it will be sufficient to quote part of an Answer given by Lieutenant Sweeney, when under Examination as a Witness, to a question put to him by Captain Robison; Lieutenant Sweeney states he had been sent for by Captain Robison on a particular occasion, and that, on going to his Quarters, he found Mr. Wilkinson with him; when Captain Robison observed, "I have sent for you and have been telling my bosom friend," etc. It appears that Mr. Wilkinson entered in the warmest manner

Association between R. Robison and Revd. F. Wilkinson.

* The words in italics were scored through in the original.

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Association between R. Robison and Revd. F. Wilkinson.

into the subject of Lieutenant Sweency's Visit to Captain Robison, which related to a Letter he had received, and expressed himself in the strongest manner, desiring him Lieutenant Sweeney to guard the Letter as "the Apple of his Eye," as it might prove of the greatest importance to him.

I have adverted to these facts, though perhaps not very important in themselves, merely to shew Mr. Wilkinson's politieal Connexions, which will leave little doubt as to his feelings and principles.

Removal of Revd. F. Wilkinson.

I have not felt myself called on to interfere in the Archdeacon's Arrangements for the disposal of the Chaplains. The factious Spirit evinced by Mr. Wilkinson proves in my Opinion that he had good reason for removing him as far as possible from Sydney.

Necessity for suppression of factions.

I cannot close this Letter without again bringing under the Notice of the Secretary of State the very serious interruption of the public Business, which is occasioned by the repetition of circumstances of this nature. And I feel it my duty to state, if the Government is not armed with such power as will enable it to put down at once the factious and disaffected, the poison, which has been infused into the minds of Individuals, must paralyze its proceedings and produce the most inconvenient consequenees.

General condition of colony.

I beg you to observe that I do not by any means wish it to be understood or supposed that the Colony is otherwise than perfectly tranquil at the present moment, though the Inhabitants have serious diffieulties to contend with. The Government carries all its measures without difficulty; and I am not aware of any dissatisfaction being felt Even in the Corporation, where the matter has been brought forward, which forms the subject of this Letter; the Individuals alluded to have found themselves without support; still I apprehend the delay, which has taken place in coming to a decision on Mr. Forbes's proeeedings, every one here even including himself having expected his removal, may operate as an eneouragement to the evil disposed to interrupt and disturb the Government. I remain, &c.,

RA. DARLING.

[Enclosure No. 1.]

Allegations by Revd. F. Wilkinson *re* delay in granting church lands.

EXTRACT of the Reverend Frederick Wilkinson's Letter to Their Lordships, the Members of the Ecclesiastical Board, dated 27th August, 1828.

"As a Trustee of the Church and School Corporation, and as fully aware of the responsibility I take upon myself in making such a declaration, I beg most clearly and plainly to state that Government are not now in a Condition to make over those Lands enumerated in the above mentioned report of Mr. Oxley to the Trustees, one Farm of 1,500 Acres and valued at £1,500 having

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been put into the possession of The Honorable the Colonial Secretary, who, Their Lordships are aware, is a Member of the Corporation.

Allegations by Revd. F. Wilkinson *re* delay in granting church lands.

"I am most free to admit that, were the Corporation put in possession of the Lands to which for nearly three Years they have been entitled to, or even a portion of them, they would have no right to complain of the disposal of the reserved Lands to one, whose claims are so strong to the favor of Government; but the wants of the Church and Schools, more particularly in the Accommodation of the Public for Divine Worship and respectable Establishments of Education, in the Opinion of all thinking Men should have been attended to at the earliest moment."

F. Wilkinson.

[Enclosure No. 2.]

Colonial Secretary Macleay to Governor Darling.

Sir, Sydney, 16th April, 1827.

Application by A. Macleay for land grant.

I beg leave to solicit from Your Excellency a Grant of one thousand five hundred Acres of Land in the Parish of Brownlow and County of Camden, bounded on the North by a West line to the Wattle rivulet, commencing on the Nepean River and the South East Corner of Mr. Hamilton Macarthur's Grant; on the west by the Wattle rivulet to the North West Corner of Mr. Charles Macarthur's Land; on the South by an East line to Mount Hunter Rivulet, bounding Macarthur's and Murdoch's Farms; and on the East by Mount Hunter Rivulet and Nepean River.

These Boundaries were given to me by the Surveyor General, by whose recommendation I resolved to apply to Your Excellency for this Land, even after my arrival in the Colony, he having assured me that it was unlocated and not wanted for the Church or for any Public Purpose. I have hitherto deferred my Application, because I had not a proper Person to put in charge of the Land; but I have now a respectable young Man, named George Sinclair Brodie, ready to take charge as my Overseer, whenever your Excellency will be pleased to authorise my taking possession; and the state of my Live Stock renders it highly desirable that I should get possession of some Land as soon as possible.

Live stock owned by A. Macleay.

My present Stock consists of about 300 Head of Horned Cattle, about 800 Sheep and Lambs, and some brood Mares and Fillies. This Stock is considerably more than the Land above described can support; but I understand that there is no more Land disposable in that Neighbourhood, and therefore I am under the necessity of soliciting that Your Excellency will be pleased to allow me to select in some other part of the Colony such an additional number of acres, as you may think proper to grant to me, with Five thousand Acres as a purchase or rather to be rented by me until a Purchase can be made, and a Reserve of Four thousand Six hundred Acres more to be ultimately Purchased. I have, &c.,

Alexr. McLeay.

[Endorsements on letter.]

Reference to J. Oxley.

For what purpose have the 1,500 acres been hitherto reserved? It is hardly possible that it would have remained till this time without being applied for, if it had been open to Settlers.

R.D. 16th.

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Report by J. Oxley.

The Land applied for by Mr. McLeay is the old Government Cattle Station known as "Brownlow Hill" and is bounded as stated in Mr. McLeay's Letter; it is entirely surrounded by other Settlers and the Church and School Estate for the County of Camden, and therefore cannot be extended; it has only been open to Selection from the Period of the removal of the Government Herds about Six Months ago, when Mr. McLeay intimated his intention to apply for it; the Land is little known, and, being of so limited extent, is probably the reason why no application has been made for it since its abandonment by Government.

J. Oxley, Surveyor General, 18th April, 1827.

Approval of application.

I approve of Mr. McLeay selecting *four Square Miles* of Land as a Grant without Purchase, and further of his renting *9,600* Acres with a view to Purchase under the 16th Article of the Regulations, No. 35 of last Year, in which latter Quantity may be included the *1,500* Acres, applied for in the Parish of Brownlow in the County of Camden.

R.D. 21st.

[Enclosure No. 3.]

Motion proposed by F. Forbes at meeting of church corporation.

Motion proposed for discussion at the Next Meeting, Vizt.: That a Letter be addressed to His Excellency embodying the following points:—

That the Corporation has now been instituted, in pursuance of His Majesty's most gracious Charter, two Years and a half, and that the Trustees are still without the Lands provided by His Majesty for the Clergy and the Education of Youth within the said Colony.

That the Trustees venture to assume that such a delay could not have been in the contemplation of His Majesty in granting the said Lands to the Trustees, as, besides the exigency of the Trusts, coupled to them the 35th Section of their Charter requires the Trustees within two Years at least from the Institution of the Corporation to transmit a report in writing to His Majesty, exhibiting a full and particular account of the Lands granted to them and the appropriation thereof up to that time.

That the Trustees further assume that Your Excellency could not have contemplated such a delay.

That the Trustees are aware of His Excellency's Instructions, under the letter of which the Colony must be surveyed and divided before any Grants of Land can be made; and that, in consequence of the limited means of Surveying in this Colony, the delay which has taken place has occurred, and the same cause will still further postpone the delivery of Lands to the Corporation in pursuance of such Instructions to a distant and indefinite Period.

That, as the Trustees have understood that, in the case of Persons newly arriving as Settlers, Your Excellency had, under Consideration of the hardship to which such Persons would be exposed, deemed it expedient to depart to a certain degree from the Letter of His Majesty's Instructions, and, in derogation as they conceive of the prior right of the Corporation to the undistributed Lands of the Colony at the date of the Charter; the Trustees would respectfully submit to Your Excellency whether the important Interests confided to their Trust may not be deemed sufficient to induce Your Excellency to cause the Lands, reserved in the settled Districts of the Colony for Government, to be delivered to the Trustees at a general Valuation, to such an Amount as to fall

clearly within the extent and value of Lands, which in such Districts will ultimately be delivered to the Trustees in pursuance of His Majesty's Charter and Instructions (a Copy of which Your Excellency was pleased to transmit to the Trustees), as such Amount of Lands can become the subject of adjustment, when the surveys of such Districts may be made and completed in conformity with His Majesty's Instructions.

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Motion proposed by F. Forbes at meeting of church corporation.

FRANCIS FORBES.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 117, per ship Anstralia; acknowledged by Sir George Murray, 21st April, 1829.)

Sir, Government House, 6th September, 1828. 6 Sept.

I do myself the honor to report to you that I have considered it necessary to cancel the appointment of Dr. Halloran, whom I had lately placed in the Situation of Coroner for the Town of Sydney.

Dismissal of L. H. Halloran as coroner.

The distressed state of Dr. Halloran's finances, who has a very numerous family, induced me as a matter of Charity to nominate him to the office of Coroner as a means of contributing in some degree to the maintenance of his children and to relieve the Government from his importunities to obtain Employment with a view to their support.

Reasons for nomination as coroner.

It appears he became involved in some controversies with the Archdeacon in consequence of his having, on the plea of delivering lectures, introduced his Discourses with the Prayers of the established Church. This led to other causes of misunderstanding betwen the Archdeacon and him, when Dr. Halloran wrote to apprize me of his intention to publish a Statement of the Archdeacon's conduct towards him, when I informed him that any attempt to degrade the immediate head of the Church in this Colony would be considered a relinquishment on his part of the indulgence which had been shewn him by the Government.

Dispute between Revd. T. H. Scott and L. H. Halloran.

Shortly after this, I received a Letter from the Archdeacon, of which the accompanying is a Copy, forwarding a Copy of a letter, also enclosed, which Dr. Halloran had addressed to Mr. Norton the Registrar of the Archdeacon's Court. I will only add, Sir, that, considering the admonition he had received, coupled with the very improper letter now referred to, I felt I had no other course in affording the Archdeacon that support, which was due to his public character in this Colony, than immediately to cancel Dr. Halloran's appointment.

Reasons for dismissal of L. H. Halloran.

Having been occupied with other more important matters, it appears I omitted to notify the appointment of Dr. Halloran at the time it took place. I have now placed a Mr. Smeathman

Appointment of T. C. Smeathman.

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in the office until you shall make arrangements for filling it up. Mr. Smeathman was employed during the War as Inspector of Foreign Corps and appears an intelligent Man; but he was not known to me previous to his arrival here.

Salary for coroner.

The Salary of the former Coroner Mr. Slade was £90 a year, with an Allowance of £25 in lieu of Rations for himself and Family. I have fixed the Salary at £100 per annum in lieu of Rations, subject to your approbation. I have, &c.,

RA. DARLING.

[Enclosure.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir. Sydney, 29th August, 1828.

Transmission of letter from L. H. Halloran.

I beg leave to enclose for your Excellency's perusal the Copy of a Letter, forwarded to me yesterday, and written by Dr. Halloran to Mr. Norton the Registrar of the Archdeacon's Court.

Some time ago, Dr. Halloran applied to me for charitable assistance and asked for an appointment from me to one of the Schools in this Colony. To the former I not only contributed on behalf of his family, but offered to do more; as to the latter, I stated I had no appointment to give him.

About nine months since, he renewed his application for an appointment as Master of one of the Schools, and demanded it as his right, but rejected all "deemosynary aid." His several Letters were couched in the most insolent and threatening Language, but I forebore taking any notice of them, and several I returned unopened.

As he now fills the important office of Coroner, I felt that, in Justice to the Station I hold, I should be wanting in due regard to it, as well as respect to Your Excellency's Government, if I withheld such a production from your knowledge.

I shall not tresspass further on Your Excellency's time, which I am aware is so much occupied, than to leave the matter entirely in your hands. I have, &c.,

T. H. SCOTT.

[Sub-enclosure.]

DR. L. H. HALLORAN TO MR. J. NORTON.

Sir, Birch Grove, near Sydney, 27th August, 1828.

As the Archdeacon employed you to write to me, desiring in his name to decline all communications with me personally or even by Letter, except through the medium of you Sir as Registrar of his Court, I request you to be the channel also of conveying to him my sentiments of his conduct towards me, and my statement of the measures consequent on that conduct, which, in Justice to myself and family, I shall feel it indispensable to adopt.

Criticism of Revd. T. H. Scott.

Prevention of employment by A.A. company.

An employment at Port Stephens had been voluntarily proposed to me by Mr. John Macarthur by a Letter now before me, and accepted by me, the Produce of which would have supplied to my Family a decent competency. The Archdeacon, by his protest against my employment by the Committee of the Australian Agricultural Company, frustrated my views in this respect, and unfeelingly

wrested from my children the Bread which had been humanely proffered for their support; can the blessing of those, who are ready to perish, be the meed of such cruelty? 1828. 6 Sept.

To this injury Mr. Archdeacon immediately after superadded the insult of ejecting me from my Pew* in the Church, on the plea "that it was wanted for a Public officer," forgetting that I also am a Public officer, holding at least as honorable an employment (though a less lucrative one) as the Gentleman for whose accommodation I have been so cavalierly and unworthily treated. Ejection of L. H. Halloran from pew in church.

The Judges of the Supreme Court, under the *written sanction* of His Excellency the Governor, had favoured me with the use of the Court House for the purpose of my Public delivery of "Sunday Lectures." You, Sir, repeatedly attended and to you I confidently appeal for the useful tenor and sound doctrine of these Lectures. But, because they were preceeded by the prayers, etc., of the Church Liturgy (Prayers from the "*Koran*" perhaps might have escaped his pious Anathemas), the Archdeacon applied to the Judges to withdraw the Indulgence, which they have done, *I know with reluctance*, and without the knowledge or sanction of the Governor, which, if thought necessary previously to the concession, was in common courtesy and consistency at least equally so before the License had been abruptly withdrawn. Lectures in court-house on Sundays.

These Sir are the injuries of which I complain. For some former expressions in my correspondence with Mr. Scott, which had given him offence, I had tendered him my appologies *at the particular instance of a high Public Officer*, and, in acknowledgment of this conciliatory advance on my part, I received the very uncourteous interdict from your Pen of future communication personally, or by Letter, with your "Venerable Principal"! such conduct, Sir, I have not deserved from this Gentleman, as the Public can attest; nor had I any thought of offending, still less a wish to offend him, until his hostile conduct towards me provoked recrimination. Refusal of correspondence by Revd. T. H. Scott.

I have written an exposé of my wrongs from the Archdeacon, supported by unquestionable vouchers, and by every tittle of the Correspondence on the subject at issue. I had made arrangements for Publishing it in this Colony; *but at the suggestion of an Individual high in authority*, to whose wishes I consider it my duty, as it is equally my inclination to yield acquiescence, I have consented to suspend for a time such Publication in this Colony. It will, however, appear at Calcutta and in England by the earliest opportunity. Proposed publication of statement by L. H. Halloran.

I will not suppose, Sir, that the Archdeacon's feelings are so obtuse that it would be possible for him to evade self reproach and poignant remorse, could he witness the privations, necessities and distressing wants of my numerous unoffending Family, induced by his uncalled for interference in contravention of my Interests, and for the extinction of my resources for their support. Effects of action on family.

I cannot but denounce the illiberality of Mr. Scott's reference to events pretended to have occurred in England at a very remote date some 30 years ago. Perhaps retrospection by the Archdeacon himself of occurrences† in that Country, within the more limited period of a few years, might not afford any very gratifying reflections. Reflections on former conduct of Revd. T. H. Scott.

On recently looking over a large collection of Papers, correspondence, etc., left by the late Mrs. Halloran, I have discovered, among them and with much surprise, several Letters subscribed I. E.

* Note 118. † Note 119.

1828. 6 Sept.

Opinion of sister of Revd. T. H. Scott.

Oxford (the Archdeacon's noble sister* I presume) in which himself and the Reverend James Scott are not very reverently mentioned. "*being accused of base ingratitude and disclaimed as Brothers.*"! ! !

I have no desire to wound the Archdeacon's sensibility; but, if he wish to avoid recrimination, let him forbear to provoke it. The injuries he has done to my Interests, I may probably surmount. His inflictions on my feelings, though they may be forgiven, can no more be forgotten than they can be repaired or atoned.

You will make what use you please of this letter. *It will be included amongst the Documents intended for Publication, as well Lady Oxford's Letters.*

I have, &c.,
L. H. Halloran.

Sir George Murray to Governor Darling.
(Despatch No. 28, per ship Princess Royal.)

8 Sept.

Sir, Downing Street, 8th September, 1828.

Despatch acknowledged.

I have the honor to acknowledge the receipt of your despatch of the 24th of January last, No. 11, upon the question of the eligibility of attainted Felons to serve as Jurors in the Courts of Quarter Sessions in New South Wales. As the Act

Abolition of juries at quarter sessions.

of the last Session of Parliament for the better administration of Justice in that Colony will put an end to Trials by Jury in the Courts of Quarter Sessions, it is unnecessary for me to enter into any discussion of the question to which you have directed my notice in the despatch under consideration.

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 29, per ship Princess Royal.)

9 Sept.

Sir, Downing Street, 9th September, 1828.

Proposed abolition of office of master of supreme court.

Your despatch, dated the 7th of January last No. 5, proposing the discontinuance of the Office of Master of the Supreme Court of New South Wales, and the appointment of two Clerks in substitution for that Officer, has been received at this Department.

I fear that the official arrangements, which have been recently made for New South Wales, will at present preclude the possibility of carrying this measure into execution. Whenever the Office of Master shall become vacant, the expediency of abolishing it and substituting two Clerks for the Master will be taken into serious consideration.

In the mean time, there can be no reason why such occupations should not be assigned to Mr. Carter on his resumption of the Office as would render him an effective Officer of the

* Note 120.

1828.
9 Sept.

Duties to be assigned to master.

Supreme Court. Although it may be inconvenient that the duties required of the Master should not correspond with the Title by which he is distinguished, it is a far more serious inconvenience that a gentleman, receiving so large a Salary, should not be fully occupied in the manner most beneficial to the Public. You will suggest to the Chief Justice the propriety of making such Rules of Court as will most effectively distribute the business between the Master and other Officers.

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 30, per ship Princess Royal; acknowledged by Governor Darling, 14th May, 1829.)

Sir, Downing Street, 10th Septr., 1828. 10 Sept.

Criticism of sentences passed at quarter sessions.

I have received your despatch dated the 31st of December last, No. 134, enclosing Returns of all Sentences imposed by the Courts of Quarter Sessions during the year 1827. Among these I observe some of a peculiar nature. For example, a person named Martin Bryant, for receiving stolen Goods, was sentenced on the 17th of February to pay a Fine to the King of £100 and to be imprisoned till the fine was paid. This would seem a very inappropriate punishment for such an offence, especially since the numerous other receivers of stolen goods, mentioned in this list, would all appear to have been sentenced to personal punishment.

I find that William Booth was sentenced on the 19th of April to twelve months' hard labor in prison for an assault. Considering the nature of the Climate in which this punishment is to be sustained, it conveys the impression of great severity.

I observe many cases, in which the Convicts are sentenced to be worked in Irons for one or two years. Without denying the necessity of this mode of punishment in some possible cases, it is obvious that it should not be resorted to, particularly for long periods, except on occasions distinguished by some peculiar malignity in the conduct of the Prisoner.

I do not mean to express any opinion upon the propriety of remitting any of the specific sentences, to which I have referred; but it may not be useless to have directed your attention to the subject in order that, when any similar sentences shall be pronounced hereafter, you may cause the necessary enquiries to be made before they are permitted to take effect.

I am, &c.,
G. Murray.

1828.
20 Sept.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON.

(Despatch No. 118, per cutter Mermaid and ship Wanstead;* acknowledged by Sir George Murray, 16th April, 1829.)

Sir, Government House, 20th September, 1828.

Transmission of petition.

I do myself the honor to forward for your consideration the accompanying Copy of a Petition, which I have received from the Revd. Dr. Lang and the Members of the Scots Church of Sydney, praying for an allowance on the part of Government to assist in the maintenance of the Master of a School which they propose to establish in this Town.

Recommendation by R. Darling.

As the Presbyterians are a very respectable body, I should have been disposed to grant £40 or £50 per Annum for the purpose pointed out; But I have deemed it advisable under present circumstances to inform them that I shall recommend the subject to your consideration. I have, &c.,

RA. DARLING.

[Enclosure.]

Petition from Presbyterians for subsidy towards master of proposed school.

THE Memorial of the Undersigned, being the Minister and Members of the Congregation of the Scots Church, Sydney.

To His Excellency Lieut. General Darling, Captain General and Commander in Chief in and over the Territory of New South Wales and its Dependencies, etc., etc.

Most respectfully Sheweth,

That, in order to meet the wants of that portion of the rapidly encreasing Population of Sydney, which is more immediately connected with the Presbyterian Church, it has been in contemplation for some time past to form a School in connection with the Scotch Church, on the plan of the Parish Schools of Scotland, in which the benefits of a common English Education, conducted agreeably to the plan approved by the General Assembly of the Church of Scotland, may be accessible to the Children of the middle and lower Classes of the Presbyterians of this vicinity.

That the principle of the Parish Schools aforesaid is to combine, with the elementary and more useful branches of Education, such religious Instruction as shall tend under the divine blessing to make the Youth follow the Faith and the footsteps of their Forefather's by confirming and strengthening their attachment to the hallowed Institutions of their native land, and that the plan, hitherto successfully pursued in Scotland with a view to render such a system of Education universal, is that of fixing the rate of Wages sufficiently low for the poorest of the People, while the Teachers' Income is eked out to a moderate degree of competency by a small Salary contributed by the State.

That, while your Excellency's Memorialists are deeply impressed with a sense of the benefits which the Presbyterians of this vicinity may derive from the establishment of a School on the principles and plan above mentioned, they beg most respectfully to represent to your Excellency that, as instruction will have to be provided gratuitously in some instances and at a rate of Wages merely nominal in others, while a considerable Expense must be incurred

* Note 121.

1828.
20 Sept.

in the outset by the Congregation of the Scots Church in providing a suitable School Room, etc., it will not be in their power to accomplish so desirable an object without assistance from Government.

Petition from Presbyterians for subsidy towards master of proposed school.

Your Excellency's Memorialists therefore most respectfully solicit that your Excellency would be gratiously pleased to grant such assistance as your Excellency may deem expedient for the accomplishment of that object, in the form of a small Salary to the person who may be appointed under your Excellency's sanction to act as School Master.

And your Memorialists, as in Duty bound, will ever pray, etc.

Thomas Barker.	A. L. Pattison.	H. Coulson.
James Dickson.	Thomas Ogilvie.	Alexr. Still.
A. Beveridge.	John Austin.	G. Tate.
Thomas Shepherd.	Thomas McVitie.	David Bell.
Archd. McKellip.	Wm. Walker.	F. Daveeson.
James Chisholm.	Robt. Crawford.	Joseph Sutherland.
Alexr. Chisholm.	Thos. Crawford.	Andrew Drysdale.
James Brown.	J. Robertson.	George Davison.
John Wallace.	John Gurner.	Thomas McIntyre.
Richard Lang.	James Cobb.	Thomas Coutts.
J. M. Wilson.	Robert Melville.	James Robb.
Hugh Noble.	William Lang.	Roderick Ross.
Alex. Dick.	C. Cunningham.	James Henry.
Charles Tomy.	Abner Brown.	S. Wilson.
Wm. Shairp.	John Durie.	Robert Campbell.
Peter McPherson.	John Tod.	Henry Rae.
J. Miller.	Alexr. Fraser.	*D. Duncombe.
J. Anderson.	David Shepherd.	Caleb Wilson.
Alexr. Thompson.	John Forsyth.	J. Malcom.
David Anderson.	James Rae.	James Forsyth.
James Smith.	Alexr. Johnstone.	Samuel Budge.
Alexander Duff.	Michael Henderson.	John Edwards.
Robert Turnbull.	Alexr. Campbell.	James Gurnie.
John McStravick.	J. Buchanan.	William Jobson.
George Panton.	A. Livingstone.	William Cowper.
W. R. Scott.	J. McNaughton.	George Craig.
A. Foss.	John Beatie.	Hugh Camaron.
John Rowell.	Thomas Wilford.	Thomas Kidd.

J. D. Lang, Minister.

Sydney, 28th August, 1828.

Sir George Murray to Governor Darling.

(Despatch No. 31, per ship Princess Royal.)

Sir. Downing Street, 22d Septr., 1828. 22 Sept.

Despatch acknowledged.

In acknowledging your despatch of the 3d of April last, I must begin by observing that it contains much which I could have wished omitted.

The Chief Justice, in his answer to your letter of the 23d of March, very fully and unequivocally denied the imputation of

* This Gentleman is not a Member of the Congregation of the Scotch Church, and signed the Memorial without my knowledge, in consequence of his general approval of its object and at the recommendation of a Scotch Gentleman who had previously signed it.—J.D.L.

1828. 22 Sept.

Censure on R. Darling for allegation of falsehood against F. Forbes.

having been accessory to the preparation of Captn. Robison's supposed charges against you, and your own reply was an assurance to the Chief Justice that his answer was in every respect perfectly satisfactory. It is much to be regretted, therefore, that you have accompanied these documents with a letter to this Department, in which you have accused the Chief Justice to H.M.'s Government of the most deliberate falschood throughout this transaction, without giving him any opportunity of transmitting a counter-statement, and without making known even to the Secretary of State, whom you address, the evidence upon which you rest this very serious charge. I see no reason to disbelieve or even to doubt the plain assurance given by the Chief Justice; and it is hardly necessary for me to add that, under such circumstances, I can take no notice of the anonymous imputation which you have so unadvisedly conveyed to my Predecessor in Office.

Demand for copy of complaints from R. Robison.

With respect to Captn. Robison himself, although you would have had a right to require from him a copy of any charges against you, which he might have sent in or directed his friends to send in to H.M.'s Government or the Commander in Chief, you were not entitled to require from him a copy of any communication, which he may have entrusted to his private friends, to be either sent in or withheld at their own discretion. The complaints of Captn. Robison however have been lately sent to my Department, and, as they relate principally to Military matters, I have referred them to the Office of the Commander in Chief.

I am, &c.,

G. Murray.

Under Secretary Twiss to Governor Darling.

(Despatch per ship Princess Royal.)

Sir, Downing Street, 22nd September, 1828.

Recommendation of W. N. Wright for indulgence.

I have received an application from the friends of a young man named William Nixon Wright, who, at the last Tipperary Assizes, was convicted of Forgery on the Bank of Ireland, and has been sentenced to Transportation, soliciting that he may be treated as favorably as the circumstances of so serious a case will allow. I have therefore to request that you will be good enough to observe his conduct with a view of ultimately extending to him any indulgence, which he may deserve by penitence and good behaviour. The knowledge that an interest of this nature is taken for this unfortunate man will afford the greatest consolation to his family who, I understand, are most respectable.

I am, &c.,

Horace Twiss.

GOVERNOR DARLING TO RIGHT HON. W. HUSKISSON. 1828. 22 Sept.

(Despatch No. 119, per cutter Mermaid and ship Wanstead; acknowledged by Sir George Murray, 2nd September, 1829.)

Sir, Government House, 22nd September, 1828.

The Subject of granting Marriage Licenses by the Governor having been brought under my notice, I was induced to communicate with the Archdeacon thereon, and I have now the honor, Sir, to transmit for your consideration Copy of a Letter, which I received from Mr. Scott in answer, transmitting the opinion of the Solicitor General. Instructions requested *re* marriage licenses.

I have since seen the Archdeacon, and, agreeing with him that it will be better to continue the practice as at present, until I can receive your Instructions, rather than risk exciting the Uneasiness which might be occasioned by publicly agitating the question before a remedy can be applied, I lose no time in putting you in possession of the Matter and hope to be honored with early Instructions on the Subject. I have, &c.,

RA. DARLING.

[Enclosure.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Sydney, 18th September, 1828.

I have the honor to transmit to your Excellency the Opinion of the Solicitor General, which I felt necessary to request in consequence of your Excelleney's Letter to me, dated the 11th of June last, on the subject of Marriage Licenses, and by which opinion it appears that granting them is vested in the Bishop of the Diocese or his Commissary. Legal opinion *re* marriage licenses.

The present form having been used so many years before any alteration take effect, I submit to your Excellency's better judgment the propriety of a reference to His Majesty's Government in England, so that, should any step be necessary to alter the form of granting Licenses or to confirm Marriages solemnized under these Licenses, it might be taken, before any alarm or unpleasant feeling on the subject be excited. Proposed reference to England.

The Custom, since the first Settlement of these Colonies, has been that no Convict, Male or Female, can be Married, nor are the Banns even proclaimed until the Governor's sanction be obtained, and this is in consequence of an order from the Governor of the Colony; and that, up to the 5th of October, 1811, *Free* Persons, wishing not to be married by Banns, procured the Governor's *permission* to be married without Publication of Banns, and for which no fee was demanded. Development of practice *re* marriage licenses.

On the 5th October, 1811, Governor Macquarie issued a Government Order on the subject of Fees to be charged *generally*; amongst them (besides the Clergyman's Fees for marrying by License) there was ordered a farther Fee of £5 5s. *for the License itself*, as a gratuity to the then Colonial Secretary.

It appears, by another Government Order dated the 26th June, 1813, that the Secretary of State, not approving the Fee of £5 5s., directed it to be reduced to £4 4s., at which rate this has remained.

1828.
22 Sept.

Development of practice *re* marriage licenses.

In the year 1825 an Act of the Colonial Council, dated November the 1st, was passed continuing "all Tolls, Rates, Fares, *Fees*, and other Sums imposed and levied by virtue of any Proclamation or Order of any Governor of New South Wales," etc., etc. It therefore appears that this Fee is in effect a Tax on the License.

Alterations in ecclesiastical administration.

There was no Ecclesiastical authority (except for proving Wills under the 4 Geo. 4, C. 96, called the New South Wales Act), until the Appointment of Bishop Heber to the See of Calcutta in the year 1823, when these Colonies were included in His Lordship's Patent; but no Ecclesiastical Commissary had been appointed by the Bishop.

In October, 1824, His Majesty erected these Colonies into one Archdeaconry by Letters Patent subject to the See of Calcutta, and in them constituted and appointed the Archdeacon for the time being Commissary to the Bishop; but no power has been ever exercised by me on the subject of Marriage Licenses, as I was not aware until now how far such interference would trench on the Governor's authority, founded on Instructions from the Secretary of State.

I have, &c.,
T. H. Scott.

[Sub-enclosure.]

Solicitor-General Sampson to Archdeacon Scott.

Sir, Court House Chambers, 30th August, 1828.

Legal opinion *re* power to grant marriage licenses.

In reply to the question proposed to me, relative to the power of His Excellency the Governor to grant Marriage Licenses in accordance with the practice adopted by the former Governors of this Colony, I have the honor to state that, however necessary such a practice might have been formerly, it does not appear to me that such a Power can now be exercised by His Excellency, there being a Bishop specially appointed for the Diocese of Calcutta, with Jurisdiction over this Colony; and, as the several Statutes passed by the British Parliament relative to Marriages have no operation here, the Law, which existed in England prior to these Enactments, vizt., the Canon Law, must be referred to as the rule of construction in the present case. By the Canon Law, the power of granting Marriage Licenses is vested solely in such as have Episcopal Authority or the Commissary for Faculties, Vicars-General of the Archbishops, and Bishops and other Ecclesiastical Persons; consequently the power of Granting Licenses for the Celebration of Marriages is vested in yourself by virtue of the authority delegated to you by the Bishop of the Diocese as his Commissary.

I have, &c.,
John Sampson.

Sir George Murray to Governor Darling.

(Despatch No. 32, per ship Princess Royal.)

23 Sept.

Sir, Downing Street, 23rd Sept., 1828.

Salary of J. Sampson during voyage from England.

As it appears from communications, which have been received at this Department, that doubts have arisen with regard to the proportion of Salary to be received by Mr. J. Sampson, Solicitor General of New South Wales, for the period between

the date of his embarkation and that of his arrival in the Colony, I have to refer you to the letter which was addressed to you by Mr. Wilmot Horton, on the 14th of September, 1827. In that letter, you were informed that Mr. Huskisson had directed that the Salary of this Officer should commence from the date of his embarkation, by which you will understand that Mr. Sampson will receive, from that period, the full amount of the Salary attached to his Office.

1828. 23 Sept.

Salary of J. Sampson during voyage from England.

I am, &c.,
G. Murray.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 120, per cutter Mermaid and ship Wanstead.)

Sir, Government House, 23rd September, 1828.

I am induced, in consequence of the desire which has been repeatedly expressed that the several Stock and Agricultural Establishments should be broken up, to inform you that arrangements have been made on two occasions lately to dispose of a portion of the Government Cattle, Sales having been advertised to take place both at Bathurst and Emu Plains. The Measure however proved totally ineffectual, as no purchasers presented themselves with the exception of one or two Government Contractors, who bought only a small quantity, though the prices fixed were at the lowest possible rate.

Proposed abolition of government farms.

Inability to dispose of cattle.

These Sales were advertised in the Months of July and August last, and the loss of Cattle since that period has been great in consequence of the long and severe Drought. It would be in vain to attempt any further Sale under present circumstances, as the distress occasioned by the failure of the last Crop has been general and has left the people without means to purchase. I have felt it my duty to report this circumstance that you may be aware, Sir, that no exertions have been spared to carry your orders into effect.

I beg further to report that I have lately discontinued the Agricultural Establishment at Bathurst and have reduced all the Establishments to the lowest possible scale. But I am not free from apprehension that, as far as regards the Engineer Department, the arrangement will prove very expensive to the Government. Hitherto the Materials required for Buildings, etc., have all been prepared, or procured by Convict Labour, and the expense I apprehend will be found to have been trifling in comparison to that which must be incurred when the Government will be under the necessity of going into the Market for anything it may require.

Agricultural farm at Bathurst discontinued.

Possible increase in expenses.

1828. 23 Sept.

Incompetency of building contractors.

I am still of opinion there are no Individuals here competent to undertake any Building on a large scale. Those, who have attempted it on a small one, have not succeeded in a satisfactory manner; and, in the case of the Court House at Liverpool, though the Contractor received money in advance to enable him to commence he has failed in the undertaking. I am still however desirous to accomplish the views of His Majesty's Government, as, independent of any other consideration, the relief, which the Local Government would experience by being released from the charge of the various Establishments which require incessant attention, would be very important, and I shall not relax in my endeavours to carry them into effect.

Doubts as to economy in reduction of establishments.

I am anxious at the same time to correct the opinion, which seems to be entertained that the reduction of the Government Establishments will prove economical in proportion, as it tends to lessen the Number of Prisoners maintained at the public expense. This will not be the case, for, as we deprive ourselves of the means of obtaining Supplies by the Labour of Convicts, we must necessarily have recourse to the Market for what we require and the expense will be much more considerable. Besides, as I have already observed, there must always be a very large number of Prisoners on the hands of the Government. Every Ship which brings out Convicts adds to this number as there are some Individuals amongst them of so bad a character and others so worthless, that the Settlers cannot keep them in their Service. Some are consequently sentenced by the Tribunals to the Penal Settlements, etc., and the less vicious or more wary are returned to the Government as useless and incorrigible. In addition to these, the aged and the invalid must be numerous in so large a Convict Establishment as this Colony has now become.

I have, &c.,

Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 121, per cutter Mermaid and ship Wanstead; acknowledged by Sir George Murray, 21st April, 1829.)

24 Sept.

Sir, Government House, 24 September, 1828.

Transmission of letter from L. H. Halloran.

I have the honor to forward to you in reference to my Despatch No. 117/1828, the accompanying letter from Dr. Halloran on the subject of his removal from the Situation of Coroner.

Power of governor to remove coroner.

As he contends that the Governor does not possess the power of removing a Coroner from office, I have been induced to request the opinion of the Solicitor General on the subject, in order that I might submit it to you, as I have now the

honor of doing, Mr. Sampson, whom I had consulted previously to Dr. Halloran's removal, having expressed the same opinion to me verbally that he has now communicated in writing. 1828. 24 Sept.

I beg leave, as a means of shewing that Dr. Halloran was warned of the consequences of indulging any feeling of hostility against the Archdeacon, to transmit the Copy of a letter which I wrote to him, when he first signified his intention of publishing his Case, in order to apprise him that he would forfeit, by such proceeding, the Indulgence which had been shewn him on the part of the Government, and which I must repeat arose entirely from a feeling of charity for his numerous family. Warning given to L. H. Halloran.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

[*A copy of this letter is not available.*]

[Enclosure No. 2.]

SOLICITOR-GENERAL SAMPSON TO GOVERNOR DARLING.

Sir, Court House Chambers, 22nd September, 1828.

In reply to your Excellency's Letter of the 18th inst., transmitting a Letter addressed by Dr. Halloran to the Right Honorable the Secretary of State on the subject of his removal from the Office of Coroner, which I have the honor of Enclosing, and requesting my opinion in writing on the point, I have the honor to state my opinion to be that the removal of Dr. Halloran from the Office of Coroner was strictly legal. For, his authority as Coroner being acquired by virtue of a Commission from your Excellency and not by Election, I apprehend that the power of revoking that Commission, whenever deemed to be expedient, rested entirely with your Excellency. Had he been elected by the County in pursuance of the King's Writ to that effect, then in such case the Court of Chancery could alone have granted the Writ of removal from the Office. But I see no reason why the Royal Prerogative should be abridged, and the measures, which expediency may dictate, be canvassed in a case where the Right of nomination is exclusive. Legal opinion *re* power of governor to remove coroner.

I have, &c.,
JOHN SAMPSON.

[Enclosure No. 3.]

GOVERNOR DARLING TO DR. L. H. HALLORAN.

Sir, Parramatta, 16th August, 1828.

I have received your Letter of the 10th inst., pointing out the manner in which the Venerable the Archdeacon had interposed to prevent the accomplishment of certain arrangements to which you allude, and the inconvenience which you have experienced in consequence, and informing me that it had been your intention to publish a Statement of your Case. Warning given to L. H. Halloran.

In expressing my regret at any disappointment you may have experienced in contributing more adequately than your present means admit of to the comfort of your family, I must abstain from entering into any consideration of the view taken by the Archdeacon of the matters you have adverted to; but I will not conceal

1828. 24 Sept. Warning given to L. H. Halloran.

from you that any publication, which should have for its object to place the immediate Head of the Church in this Colony in an unfavorable light, would be considered by the Government as a relinquishment on the part of the Author of any claim he might have had to its Countenance and protection.

I have, &c.,
Ra. Darling.

Governor Darling to Right Hon. W. Huskisson.

(Despatch No. 122. per cutter Mermaid and ship Wanstead; acknowledged by Sir George Murray, 16th April, 1829.)

25 Sept.

Sir, Government House, 25th September, 1828.

Police for district of Argyle.

1st. The Magistrates of Argyle having complained of the inconvenience they experience in attending to the Police of the District, some runaways having lately been very troublesome in that quarter, I have been under the necessity, as well to relieve the Magistrates from constantly attending to the duties of the Police as to afford them additional protection, to order a Detachment consisting of an officer and 15 men to be stationed in that District, where there is already a few of the Mounted Police. These I think will effectually insure the tranquillity of that Quarter, and the measure is the most economical that I could devise.

Military detailed for duty.

Duties and allowances of officer.

The Officer will do the duty of a Police Magistrate and will also have charge of the Party of the Mounted Police, as well as of the Detachment of his own Corps. To be useful, he must necessarily keep a horse, and I have authorised his receiving an Allowance of Half a Crown a day on this account in lieu of Forage, with a further sum of 5s. per diem as some remuneration for the trouble he will experience in attending to the duties of Magistrate. This is no doubt a very inadequate allowance; but I am unwilling, so long as a person can be found to undertake the Duty on these terms, to incur any greater Expense without special authority.

Magistrate and military detailed for districts of Illawarra and Shoalhaven.

2nd. I beg to report that I have also been under the necessity of sending a Magistrate to Illawarra to superintend the Police of that District and Shoal Haven, where there are a number of Cedar cutters, who are a very disorderly set of men, and the runaways, who associate with them, have of late been very troublesome. I have ordered a party of soldiers to be placed under the above Magistrate, as I am not able to detach Officers with the numerous parties which are necessarily employed in the Interior.

Salary for magistrate.

I request your authority for the issue of an allowance of *£150* a year for this Person and for the hire of a small House for his accommodation and as a Quarter for the Detachment, which I

understand cannot be obtained at a lower rate than £70 a year. I ought to have stated that there is no person resident in the District of Illawarra, who is qualified to be a Magistrate, which has rendered it necessary to appoint a person specially for the purpose. I have however little hope of anyone continuing the duty on so small an allowance. 1828. 25 Sept. No resident qualified as magistrate.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 33, per ship Princess Royal.)

Sir, Downing Street, 28th Sept., 1828. 28 Sept.

I have the honor to acknowledge the receipt of your despatch No. 87 of the 21st September, 1827, accompanied by two Requisitions for Medicines, etc., for the use of the Hospitals in New South Wales. In reply, I transmit to you the copy of a letter which has been received from the Secretary to the Treasury, together with its enclosures, by which you will perceive that directions have been given for the immediate supply of the Requisition, dated 16th August, 1827, with the exception of certain articles mentioned in the Return enclosed in Mr. Stewart's letter. Requisition for medicines, etc.

I am, &c.,
G. MURRAY.

[Enclosures.]

[*These papers have been omitted.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 34, per ship Princess Royal; acknowledged by Governor Darling, 31st May, 1829.)

Sir, Downing Street, 30 September, 1828. 30 Sept.

I have the honor to acknowledge the receipt of your Dispatch of the 25th of March last No. 45, enclosing an Extract from the Minutes of the proceedings of the Executive Council of New South Wales on the case of James Kelly, who was convicted of Murder, but whose Sentence had been commuted to transportation to Moreton Bay for seven years and hard labour in chains, and which case you recommended to His Majesty's merciful consideration. Despatch *re* sentence on J. Kelly. I have to acquaint you, in answer, that it will be necessary that you should send home the notes of the Evidence, taken by the Chief Justice on the trial of this Individual, without which, in this as in every other reference to the Government at home upon a Criminal Sentence, it will be impossible to form any decision with regard to the merits of the case. Notes on evidence to be transmitted.

I am, &c.,
G. MURRAY.

1828. 30 Sept.

Sir George Murray to Governor Darling.

(Despatch No. 35, per ship Princess Royal; acknowledged by Governor Darling, 2nd June, 1829.)

Sir, Downing Street, 30 September, 1828.

Transmission of letter from "E. Edwards."

I have the honor to transmit to you the accompanying Copy of a representation, which has been received at this Department from an Individual named "Elizabeth Edwards," the Wife of a Convict at New South Wales, and I have to request that you will furnish me with such observations as the circumstances of the case may appear to you to require.

I have, &c.,
G. Murray.

[Enclosure.]

Précis of letter from E. Lockaye.

Memo. of Mrs. Lockaye's Letter* to the Secretary of State.

10th April, 1828.

That, under the pretence of her Husband being Lockaye, he was sent to Pt. Macquarie.

That he was subsequently recalled in consequence of his good conduct and sent to Bathurst, but afterwards ordered to Wellington Valley at the instance of an Officer who had falsely accused him.

That he appealed to Genl. Darling without effect.

Rendered desperate by persecution, he appealed to the Supreme Court and left his station to wait on the Chief Justice.

That the Governor, under the plea that his object was to escape from the Colony, offered a reward of £50 for his apprehension; that he was taken and sentenced to be sent for 3 years to Norfolk Island.

That her entreaties in his behalf and his offer to make any concessions were all unavailing.

That at this time she learnt that a pardon had been recd. for Edwards, and that he was now kept as Lockaye.

That a person named Shewell informed her he had seen the real Lockaye working on the Roads.

That Shewell made affidavit of the same before the Supreme Court, but that her poverty prevents her forwarding a copy.

That, when the attempt was made to identify him as Lockaye, the basest people were examined, who contradicted themselves: that the Magistrates refused to take down the cross examinations, which however she sent to the Governor, and that the Police Clerks can verify them. She calls for these documents.

That, when these examinations took place, her husband had no previous notice and was quite unprepared.

That she offered in two years to produce proof from England that he was not Lockaye, but the Governor refused and persecuted him with the view of pleasing the Beaufort family.

When Prisoners were withdrawn from Pt. Macquarie, her husband was excepted.

Wives were allowed to have their husbands assigned to them. She was a solitary exception.

She calls for her husband's Papers, which were intercepted by the Police.

* Note 122.

That many Gentlemen interceded in her behalf but in vain, as the Governor always flew in a passion when her husband's name was mentioned. 1828. 30 Sept.

3rd June, 1829.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch per ship Princess Royal.)

Sir, Downing Street, 15th October, 1828. 15 Oct.

It is with infinite concern that I communicate to you the intelligence of the decease of Her Majesty the Queen Dowager of Wurtemberg, which melancholy event took place at Ludwigsberg, between the hours of one and two O'clock in the afternoon of the 6th Instant. Death of queen dowager of Wurtemberg.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 36, per ship Princess Royal.)

Sir, Downing Street, 25th October, 1828. 25 Oct.

I have the honor to acknowledge the receipt of your letter of the 13 March last No. 35, explaining the Grounds, on which you had been induced to provide a residence at the expense of the Government for the family of the late Sir James Brisbane, during their stay at New South Wales; and, in answer, I can only express my regret that His Majesty's Government are not at liberty to sanction such an Expenditure, although I feel persuaded that it was incurred with the best intentions, influenced as you appear to have been by a regard to the public Service, as well as by an anxiety to provide for the comfort and accommodation of Sir J. Brisbane's family. Refusal to approve rent of house for Sir J. Brisbane.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 37, per ship Princess Royal.)

Sir, Downing Street, 26th October, 1828. 26 Oct.

I have to acknowledge the receipt of your dispatch of the 27th of March, enclosing Copies of a letter, and three Reports from the Civil Engineer relative to certain Expences incurred by him under your authority, in the erection, repairs and alterations of the Buildings therein mentioned; and I beg to acquaint you in answer that I have recommended to the Lords Commissioners of the Treasury that these expenses should be allowed. Approval of expenditure on public works.

I have, &c.,

G. MURRAY.

1828.
27 Oct.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 38, per ship Princess Royal.)

Sir, Downing Street, 27 October, 1828.

Despatch acknowledged.

I have to acknowledge the receipt of your despatch of the 28th March, 1828, transmitting the Copy of a Bill given in by Mr. Foster for assistance afforded to the Attorney General, which Bill, amounting to the Sum of £365 5s. 6d., you request authority for carrying to the public account. You also state that, on receiving a notification of a separate Salary having been assigned to the Situation of Solicitor General, you had directed Mr. Foster to be paid at the rate of £400 a year, being a moiety of the Salary of that Situation.

Approval of salary and bill of costs for W. Foster.

Upon these points, I beg to acquaint you that, as it appears, when you gave directions for the payment to Mr. Foster of the above rate of Salary, you could not have been aware of the arrangement, communicated to you in Mr. Wilmot Horton's Letter of the 14th of September, 1827, viz., that Mr. Sampson's Salary should commence from the date of his embarkation. I do not of course attach any blame to you for the inconvenience which will arise from a double payment of Salary in this instance. In sanctioning, however, this allowance to Mr. Foster, as well as that for his assistance to the Attorney General, I take it for granted that no part of the latter charge includes assistance rendered by him for any time for which he has been paid a specific Salary, as it would be wholly inconsistent with every principle of equity towards the public that Mr. Foster should, in addition to that Salary, receive any separate remuneration on account of such Services.

I have, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Princess Royal.)

28 Oct.

Sir, Downing Street, 28th October, 1828.

Letter from L. H. Halloran.

Mr. Secretary Peel has referred to this department a letter from Dr. Halloran, in which Dr. Halloran applies for a grant of Land, and solicits the patronage of Government for a free Grammar school, to be superintended by himself.

Land grant authorised.

I am instructed by Secretary Sir Geo. Murray to acquaint Your Excellency that he has no objection to Dr. Halloran's receiving a Grant of land on the same terms as any other Applicant; but, if Dr. Halloran be unable to fulfil the conditions always annexed to such Grants, Sir Geo. Murray cannot allow an exception to be made in his favor.

1828.
28 Oct.

As to the proposed school, Sir George Murray does not think that the past life* of Dr. Halloran would justify His Majesty's Government in leaving him at the head of any place of education, which should be supported by Government.

Disapproval of L. H. Halloran as master of school.

I am to request that you will make known to Dr. Halloran these decisions of Sir Geo. Murray on the objects of his application, and that you will at the same time return to him the original documents herewith enclosed.

I am, &c.,
H. Twiss.

[Enclosures.]

[*These documents were letters from Sir T. Brisbane, dated 16th October, 1825, and from colonial secretary Macleay, dated 20th December, 1827, and newspapers.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 39, per ship Princess Royal.)

Sir, Downing Street, 29th October, 1828. 29 Oct.

Previous instructions *re* granting of pardons to convicts.

The object of my present communication will appear more distinctly, if I begin by referring you to Lord Bathurst's despatch, No. 21, of 10th March, 1826, which signified to you the King's Commands that in no case should a pardon be granted to any description of convict above the condition of the laboring class, unless he should first subscribe a declaration, to be drawn up or approved by the Chief Judge, by which the Convict should bind himself to quit the Colony immediately on receiving such pardon, and neither return to it nor proceed to Van Diemen's Land without the especial license of the Secretary of State; in default of performing which agreement, he should be exposed to all the penalties of the original sentence.

Modification of regulations *re* pardons for educated convicts.

I have now the honor of acquainting you that, as according to the opinion of well informed persons the prisoners of this description whose residence in the Colony it was the object of that dispatch to interdict (under the impression that their education would enable them, if so disposed, to disturb the tranquillity of the Colony in a greater degree than the more ignorant class of offenders) are not those from whom the greatest danger is to be apprehended, His Majesty's Government are desirous of modifying a Regulation, which without producing any advantage to the Public appears to bear hard upon those Convicts, who may have shown themselves deserving of indulgence, but who have not according to the Regulations served so much of their Sentence as to render them eligible for a free pardon.

Instead therefore of the declaration, which was prescribed by the despatch of the 10th March, 1826, obliging the description of Convicts therein specified to quit the Colony immediately, you

* Note 123.

1828. 29 Oct. will exact a Covenant, to be approved as that despatch directs, obliging those Convicts to quit the Colony at any time when they shall be required by the Governor to do so.

I have furnished the Lt. Governor of Van Diemen's Land with instructions similar to those contained in this despatch.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 40, per ship Princess Royal.)

31 Oct. Sir, Downing Street, 31st October, 1828.

Approval of payment to J. Stephen as acting chief justice. I have received your dispatch of the 28th of March last, adverting to the remuneration granted to Mr. Judge Stephen during the indisposition of Mr. Forbes, as reported in your despatch of the 2d of March, 1826, and requesting, as no answer has been received to that despatch, that the arrangement may be sanctioned which was then proposed, viz., that, during the time Mr. Stephen officiated as Chief Justice, he should be allowed the Salary assigned to that situation.

Under the peculiar circumstances connected with the provisional execution of the duties of Chief Justice, I am induced to authorize the payment in question; but this arrangement must not be cited as a precedent upon any future occasion, in which an Officer of your Government shall be compelled by illness or otherwise to absent himself from his duties, as, under such circumstances, he can only be permitted to receive half the emoluments of his Office.

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 41, per ship Princess Royal; acknowledged by Governor Darling, 15th May, 1829.)

1 Nov. Sir, Downing Street, 1st November, 1828.

Despatch acknowledged. I have receeived your Dispatch No. 23 of the 25th Feby. last, enclosing reports from the Commandants of Melville Island and Raffles Bay.

Orders for removal of settlement from Melville island. I had already, on the 31st May last, felt it neecssary to direct the removal of the remaining part of the Troops and Prisoners from Melville Island to Raffles Bay. Your present communication has led me to reconsider generally the policy of maintaining any Settlements on the North West Coast of New Holland.

Objects of settlement in north Australia. The first Settlement on the North West Coast was undertaken upon representations* from the East India Trade Committee, who hoped that the possession of Establishments in that quarter would lead to an intercourse with the Malays, and thence to a Trade with the Islands of the Eastern Archipelago. These hopes,

* Note 124.

1828. 1 Nov.

as you are aware, have been disappointed. The Malays have never appeared at the places which have been settled, and it seems doubtful whether they would be disposed to visit situations occupied by Strangers.

Objections to settlements.

In the mean time, the Settlements have proved unhealthy, difficulty is found in supplying them with provisions, and much annoyance is experienced from the Natives. These objections are very serious, and I do not think that there is, on the other side, any prospect of advantage sufficiently strong to warrant a continuance of the Expense and risk of life, by which the Settlements which have been established at Melville Island and Raffles Bay must be maintained.

Orders to abandon all settlements in north Australia.

You will, therefore, upon the receipt of this dispatch, proceed to withdraw the Troops and Convicts who have been stationed there.

I am not aware that any private individuals have followed the expeditions as Settlers; but, should there be any such persons, you will afford them the means of returning to Sydney free of expense, will make them reasonable compensation in land for any losses which they may have sustained, and will do all in your power to relieve them from the disappointment that might be occasioned by the present measure. I have, &c.,

G. Murray.

Governor Darling to Sir George Murray.

(Despatch No. 123, per ship Caroline; acknowledged by Sir George Murray, 6th June, 1829.)

Sir. Parramatta, 1st November, 1828.

Suspension of extra salary for F. A. Hely.

Having been induced, in consequence of the Despatches I have lately received on the subject of any new Appointment which it may be considered necessary to make, or of encreasing the Salaries of those which already exist, to suspend the issue of the additional Salary, proposed in my Despatch No. 94 dated the 4th of August last, in the case of Mr. Hely, the Principal Superintendant of Convicts, on account of the duty he has to perform, with respect to the granting of "Tickets of Leave," until I shall be honored with your Orders on the Subject.

Letter from F. A. Hely re his duties.

On notifying this to Mr. Hely, he addressed a Letter to me on the subject of his duties and situation generally, a Copy of which I beg leave to enclose for your consideration, and it is only just in me to state that, since my assuming the Administration of this Government, the duties of the Principal Superintendant of Convicts have been very considerably extended and the Office has been placed on a much more important footing than heretofore.

1828.
1 Nov.

Reorganisation of office of superintendent of convicts.

When I arrived, this Office was like all the others totally unorganised, and the Principal Superintendant mearly a Clerk in the "Lumber Yard," who received his Orders from the Civil Engineer.

The Communications, which I have had the honor to address to your Office with respect to the present Organisation of the Convict Department, the details of which are very numerous and complicated, will render it unnecessary for me to point out in this place the footing on which it now stands.

At the time of my arrival, the Salary and allowances of the Principal Superintendant of Convicts amounted to £352 9s. 2d. as stated in the Report of the Board which accompanied my Despatch of the 8th April, 1827. I have now authorised his receiving a Salary of £500 a year, in consequence of the authority conveyed in Mr. Secretary Huskisson's Despatch No. 19 of the 31st March last, without any other allowance. But, as I do not consider that this addition of £148 per Annum is at all in proportion to the encreased duties and responsibility of the Office of Principal Superintendant of Convicts as at present established, I am induced, Sir, to recommend that Mr. Hely may be allowed £100 a Year in addition, on the grounds stated in his Letter, making his Income £600, including all allowances.

Salary for F. A. Hely.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. F. A. HELY TO GOVERNOR DARLING.

Principal Supt. of Convicts Office,
Sydney, 30th October, 1828.

Sir,

Suspension of payment for duties *re* tickets of leave.

I have been honored through the Colonial Secretary with an intimation from your Excellency that, in consequence of the Orders which your Excellency has received from Home, it would not be in your power to sanction the issue of £100 per Annum which your Excellency had authorised being paid on account of the duty connected with the granting of Tickets of Leave, until your Excellency received Instructions to that effect from the Secretary of State.

Extra duties performed.

Under the circumstances, I beg leave most respectfully again to submit, for the consideration of your Excellency, that the duties, for which your Excellency was pleased to sanction the issue to me of that sum, do not properly attach to my Office, any more than any other duty of the Colonial Magistracy; and I might with equal justice be charged with the whole conduct of the Sydney Police Department, as with this branch of it. It is not I trust at this time necessary for me to assure your Excellency of the desire, which I feel in obeying your commands to forward the best interests of the Public Service; my conduct has been long before you, and the testimonies of your Excellency's approbation of that conduct, more than once vouchsafed, have been to me a source of the most unmingled satisfaction.

1828. 1 Nov.

Former indefinite character of office.

It will be in your Excellency's recollection that, on assuming the Government of this Colony, you found mine an office of the most indefinite character; circumstances not unknown to your Excellency, over which I had no control, had kept it stationary during the two years I held it under the Administration of Sir Thomas Brisbane, and, in January, 1826, it was nearly the same as it was in January, 1824; at that time its duties were little more than those of an Overseer (very different indeed from what I was led to expect they would have been on my appointment by my Lord Bathurst in 1823); those two years however furnished me with much experience and information, which your Excellency, by the measures adopted on your arrival, was enabled to render available to the Public Service; and I confide that, in the zeal with which these measures have been seconded and executed, so far as they relate to my office, I have been surpassed by none.

Expansion of duties of office.

Since your Excellency's arrival, the business of this Office has encreased in a ratio far exceeding that of any other Department of the Government; that, which constituted the greater portion of the business of former Secretaries of the Government, is now conducted by me without the concomitant emoluments. I refrain from troubling your Excellency with a recapitulation of what is so well known to you; and it will therefore suffice to say that the whole details of the Convict Department of the Government are now under my charge and superintendence, an encrease of business which has required and obtained from your Excellency the aid of six additional Clerks.

Appropriation of fees to public revenue.

The fees paid upon the various instruments of Convict Freedom and indulgences now prepared in my Office, formerly the perquisite of the individual who prepared them, are now carried to the account of the Public Revenue, and those formerly paid on clearances out of the Colony (now given at my Office to such as have been Convicts under the Act of Council $\frac{25}{10}$) are no longer demanded.

Increased labour due to ticket-of-leave regulations.

The Ticket of Leave Regulations of January, 1827, has added very considerably to my labor. Before the arrival of your Excellency, I had nothing whatever to do with this. During the administration of Sir Thomas Brisbane, the Chief Engineer (as he was then called) returned to the Colonial Secretary the names of such Convicts in Government employ in Sydney, as he deemed deserving of the indulgence; and the Magistrates and Clergymen of Sydney and the interior recommended all others. The Imperfect test, which such a proceeding afforded of the merits of the applicant, and the faulty manner of the whole was brought under your Excellency's Notice by me soon after your arrival, and a suspension of the issues of these indulgences ensued, until the present regulations were framed under your Excellency's sanction. Now, as your Excellency is aware, the claims of every individual Convict in the Colony must be examined by me before being submitted to your Excellency for any indulgence, for which purpose they are forwarded by each of the different Benches and other Magistrates in the interior to this office. Sydney and the extensive surrounding Districts produce numerous periodical claimants; and these, instead of being examined by the Bench here, as in other parts of the Colony, are examined by a Committee of Magistrates (of whom I am the Senior) which assembles at my Office monthly for the purpose. The whole of the labour of this Committee is

1828.
1 Nov.

borne by me, and it was for this Service your Excellency was pleased to grant me the hundred pounds per annum, the authority for which has been so recently suspended.

Increased labour due to ticket-of-leave regulations.

The Quarterly Musters of convicts holding Tickets of Leave and general Returns of the same is also a new duty, which has arisen out of the Regulations of 1827, such Musters, as were formerly taken, having been done by the Police Magistrate.

Issue of rations and clothing.

The whole of the Victualling and Clothing issues to the Convicts employed by the Crown in the Colony (Penal Settlements excepted) are checked by me.

These various duties, I respectfully submit to your Excellency, are of no mean importance in a Colony constituted as this is; and *how* they have been executed, your Excellency and that Colony can best judge. I can but say that my whole time and my best energies are devoted to a faithful discharge of them. It is now nearly six years since I was appointed to the office, which I have the honor to fill, and facts will speak for themselves whether my pecuniary advancement has kept pace with the progressive increase of my labour. I desire nothing more than what may be considered sufficient to support me in that degree of respectability, which should attach to my Office; and I am certain your Excellency cannot fail to have observed how inadequate my present income is for that purpose. Nearly one fifth of the whole of that income goes for House Rent alone, and the accommodations, even that sum will furnish, are inadequate to the wants of a family in our warm Climate. Most other expences of living are on a par with this. As the head of an important Department of your Excellency's Government, I respectfully submit that it is necessary I should be enabled to live respectably and without anxiety on pecuniary matters; this I cannot now do, although I live with the utmost privacy; and the wants of a growing family encrease daily.

Request for adequate income.

Request for transmission of letter to secretary of state.

Your Excellency having been pleased however to state your inability to act in this and similar cases without the sanction of His Majesty's Government, and for that reason having withdrawn the allowance you had made to me on account of extra services, I respectfully request that your Excellency will please to submit this letter with such observations as you may consider necessary to The Right Honble. The Secretary of State for the Colonies.

I have, &c.,
F. A. Hely.

Sir George Murray to Governor Darling.

(Despatch No. 42, per ship Princess Royal.)

2 Nov.

Sir, Downing Street, 2nd November, 1828.

Despatches acknowledged *re* benevolent asylum.

I have received your Despatches Nos. 44 and 61 of the 24th of March and 1st of April last upon the subject of the concerns of the "Benevolent Asylum."

I am certainly disposed to concur with you in thinking that the objects of this Society may be better promoted by leaving its affairs to the active exertions of private benevolence, than by rendering the Society principally dependant upon the assistance of the Government. Anxious therefore as H.M. Government will always be to contribute their assistance towards the

promotion of those views, the management of the Institution and the application and extension of the charity must be left entirely in the hands in which they are already placed. 1828. 2 Nov.

Considering the subject in this light, I do not think it expedient to authorize you to build a Wing to the Asylum; but, if the Committee of Management should formally apply to you for the means of extending the accommodation which they have it not now in their power to grant to the objects of their benevolence, you will of course understand that you are fully authorized to place such means at the disposal of the Committee. Disapproval of building of wing. Instructions *re* subsidy for objects of asylum.

It will be for you, in concurrence with them, to concert the most convenient mode of contributing from the Funds of the Colony the assistance, which may be required for the support of the Institution; but I am disposed to think that it will be inexpedient for you to interfere any further with respect to the application of the assistance, which you shall afford, than by taking care that it be duly applied to the purpose for which it is given.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 43, per ship Princess Royal.)

Sir, Downing Street, 3rd November, 1828. 3 Nov.

I have received your dispatch marked "Separate" of the 24th of March.

As you have already been apprized of the Orders of His Majesty's Government with respect to the Salaries which, upon your earnest recommendation, it has been thought proper to allow to the several Officers of your Government, I have only to request that you will be good enough to take care that the Civil Establishment be strictly maintained upon the scale, which has been approved, and which will be taken as the standard by which the Accounts will be audited in this Country. Civil establishment to be maintained on approved scale.

With respect to the Convict Establishment, I am ready to allow all due weight to the considerations, which you have offered, in order to shew the difficulties of maintaining that Establishment permanently upon any given scale; but I cannot too earnestly impress upon you that, as that Establishment is defrayed entirely from Funds voted by Parliament upon the recommendation of His Majesty's Government, and which must therefore form the subject of an Estimate, to be annually transmitted by you for the consideration of Government and of Parliament, you will always be incurring a most heavy responsibility, if you take upon yourself to exceed in any one year the grant, which may have been specifically voted for the Service of Maintenance of convict establishments.

1828. 3 Nov. such year, or if you should propose to encrease the expenditure for the year following, without having given timely notice of, and assigned sufficient grounds for the proposed encreased of expense.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 44, per ship Princess Royal.)

4 Nov. Sir, Downing Street, 4th November, 1828.

Despatch acknowledged. I have to acknowledge the receipt of your Dispatch of the 2nd of April, in which you advert to the case of Mr. Bannister, late Attorney General of New South Wales, conceiving it possible that he may have complained of the circumstances attending his removal from Office.

Neglect of complaints by S. Bannister. Mr. Bannister, on quitting New South Wales, addressed several Letters to this Department, forwarding at the same time a printed Pamphlet, containing the whole of his correspondence with you upon that and other subjects. But as there was no disposition on the part of His Majesty's Government to listen to the complaints of Mr. Bannister, it was not deemed necessary to refer these complaints for your report. I am glad however to have received the information, which you have communicated with respect to this Gentleman, as it is not unlikely that, when he returns to this Country, he will endeavour to draw the attention of the public towards his case.

I am, &c.,
G. Murray.

Governor Darling to Under Secretary Twiss.
(Despatch per ship Caroline.)

6 Nov. Sir, Government House, 6th November, 1828.

Despatches acknowledged. I have the honor to acknowledge the receipt of the several Despatches as dated in the Margin,* which arrived by the Ships "Countess of Harcourt," "Competitor" and "Albion" on the 9th September last, 10th of October and 3rd inst. respectively, and I shall do myself the honor to reply to them as soon as circumstances shall permit.

I have, &c.,
Ra. Darling.

* *Marginal note.*—"Countess of Harcourt," received 19th Septr., 1828, from Mr. Huskisson—No. 19, 31st March, 1828; No. 20, 26th April, 1828; No. 21, 27th April, 1828; No. 22, 28th April, 1828; No. 23, 29th April, 1828; No. 24, 30th April, 1828. "Competitor," received 10th Octr., 1828, from Sir Geo. Murray—Circular No. 1, 30th May, 1828; No. 1, 31st May, 1828; No. 2, 31st May, 1828; No. 3, 31st May, 1828; No. 4, 31st May, 1828; No. 5, 31st May, 1828; No. 6, 3rd June, 1828; No. 7, 4th June, 1828; No. 8, 11th June, 1828; No. 9, 11th June, 1828. "Albion," received 3rd Novr., 1828, from Mr. Huskisson—No. 25, 12th May, 1828; No. 26, 13th May, 1828; No. 27, 15th May, 1828; No. 28, 16th May, 1828; No. 29, 17th May, 1828; No. 30, 18th May, 1828; No. 31, 19th May, 1828; No. 32, 21st May, 1828; No. 33, 22nd May, 1828; No. 34, 23rd May, 1828; No. 35, 26th May, 1828.

GOVERNOR DARLING TO UNDER SECRETARY TWISS. 1828. 6 Nov.
(Despatch per ship Caroline.)

Sir, Government House, 6th November, 1828.

I have the honor to acknowledge the receipt of the several letters as dated in the Margin,* which arrived by the Ships "Countess of Harcourt," "Competitor" and "Albion" respectively, on the 9th September last, 10th of October and 3rd inst., and I shall do myself the honor to reply thereto as soon as circumstances shall permit. Despatches acknowledged.

I have, &c.,
RA. DARLING.

GOVEROR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 124, per ship Caroline; acknowledged by Sir George Murray, 27th August, 1829.)

Sir, Government House, 8th November, 1828. 8 Nov.

I do myself the honor to forward herewith the accompanying letter, addressed by Chief Justice Forbes to Mr. Huskisson, the late Secretary of State for the Colonial Department, in reply to the "Statement"† published by the Reverend Samuel Marsden, on the subject of the investigation which took place into the conduct of Doctor Douglass in the year 1825. Transmission of letter from F. Forbes.

Mr. Forbes having stated in the enclosed Letter that Mr. Marsden had imputed to him and to the honorable Persons, with whom he was associated, motives of partiality and injustice, I was induced to refer to him to enquire whether there was any objection on his part to my communicating the Letter, he had addressed to the Secretary of State, to Archdeacon Scott, who was one of the Persons associated with him in the Inquiry and was now here. You will perceive, Sir, by the accompanying Copy of a Correspondence, which has passed between the Chief Justice and myself that he has declined sanctioning his Letter being communicated to the Archdeacon, and I have in consequence abstained from acquainting Mr. Scott with the circumstance of my having received such a letter. Motives imputed to F. Forbes by Revd. S. Marsden. Refusal of F. Forbes to permit reference to Revd. T. H. Scott.

I have, &c.,
RA. DARLING.

[Enclosure No. 1a.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 2nd October, 1828.

I have the honor to enclose a Letter addressed by me to the Right Honorable the Secretary of State, in answer to what I

* *Marginal note.*—"Countess of Harcourt," received 9th September, 1828—3rd April, 1828; 30th April, 1828. "Competitor," received 10th October, 1828—24th May, 1828; 24th May, 1828; 24th May, 1828; 1st June, 1828; 10th June, 1828; 11th June, 1828; 28th June, 1828. "Albion," received 3rd Novr., 1828—20th May, 1828; 24th May, 1828; 26th May, 1828; 30th May, 1828. † Note 46.

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consider to be an Attack made upon me, in common with the other Members of the late Government, and to request that your Excellency will transmit the same, together with any remarks that you may deem proper to make upon it. And I shall feel obliged if your Excellency will inform me of the conveyance by which the letter is transmitted, that I may ascertain the time of its arrival in London.

I have, &c.,

FRANCIS FORBES.

[Enclosure No. 1b.]

CHIEF JUSTICE FORBES TO RIGHT HON. W. HUSKISSON.

Sir, Sydney, New South Wales, 30th September, 1828.

Reply by F. Forbes to statements by Revd. S. Marsden.

Inquiry *re* charges against H. G. Douglass.

I have the honor to call your attention to certain transactions, which took place in New South Wales in consequence of an Enquiry directed by Earl Bathurst in the year 1825. Mr. Marsden, senior Chaplain of the Colony, and a person named Bradley, had transmitted statements* to England, charging Dr. Douglass, a Gentleman in the commission of the peace at Parramatta, with misconduct in his office: and, their statements having been laid before Earl Bathurst, his Lordship addressed a despatch* to the Governor of the Colony, directing him, in conjunction with the Chief Justice and the Archdeacon, to enquire into the truth of the statements and to report thereupon for the information and decision of His Majesty's Government. The reports of the Commissioners, together with all the proceedings, were transmitted to the Secretary of State and were approved by his Lordship: and I had been induced to hope after a repose of three years that the subject would not be revived. Mr. Marsden, however, has lately published a pamphlet, entitled a "Statement, including a correspondence between the commissioners of Enquiry and the Reverend Samuel Marsden, relative to a charge of illegal punishment preferred against Dr. Douglass held in July, 1825, together with some observations on the Bill of Indemnity." His statement contains a very incorrect account of the proceedings, which it undertakes to report: and it is evidently intended to create an erroneous impression in England. Had the Reverend Gentleman confined his remarks to his own exculpation, I should not have thought it necessary to notice his publication. But, as he has imputed to me and to the honorable persons, with whom I was associated, motives of partiality and injustice, and has intimated his intention of appealing to Parliament, I feel myself called upon to address a few explanations to you, Sir, as well to prevent any unfair inference being drawn from my silence, as to put you in possession of the particular points of a case, which the time that has passed since it occurred, and the changes which have taken place in the Colonial Department, may render it difficult to collect without some assistance from the voluminous proceedings in your Office. My judicial station in this Colony will not allow me to enter the lists with Mr. Marsden, and therefore to you, Sir, I must commit the defence of our proceedings, should they become the subject of a second discussion in Parliament.

Mr. Marsden's Statement is divided into two general heads; the first, relates to the Enquiry at Parramatta; the second, to the Bill for staying proceedings against the Magistrates of the Colony. I shall follow the same order in the remarks which I have occasion to make upon this pamphlet.

* Note 125.

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Inquiry re charges against H. G. Douglass.

First, of the Commission of Enquiry. The Enquiry was founded on a despatch of Lord Bathurst, dated January 3rd. 1825, which contained, amongst other instructions, the following:—

"And, lastly, I have to direct you to apply to Mr. Marsden to bring before you the statement, which he has transmitted to England with respect to the alleged fact of Dr. Douglass having ordered a convict to be flogged with a view of extorting confession from him."

It was further directed that the report of the commissioners, upon the several points of accusation, should be transmitted to England; upon the confirmation or refutation of which, the Secretary of State reserved to himself the decision as to the propriety of retaining Dr. Douglass in his official situation.

The Commissioners met on the 14th of July at Parramatta, and were attended by Mr. Marsden and Dr. Douglass. These Gentlemen were informed that the Commissioners had no legal Jurisdiction as a Court, and no power to administer an Oath, or to compel the attendance of witnesses; but that, if they were willing to submit to the Enquiry, the Commissioners would hear their statements, and those of the persons they might bring forward in their behalf, and report the same for the determination of the Secretary of State. The parties severally agreed to submit to the Enquiry, and the Commissioners entered upon it accordingly. Mr. Marsden gives the following account of the first day's proceedings—"the paragraph in Lord Bathurst's Instructions was read, containing the above charge, and I was called upon to produce the written statement which Lord Bathurst had, in his letter, said I had transmitted to England. I replied: I said I was not Dr. Douglass' public accuser, nor ever wished to be, and that I had never sent the statement in question to Lord Bathurst, nor to any other of His Majesty's Ministers; but that, as Lord Bathurst had involved my name in the question and referred the Court to me for proof, I was prepared to establish the charge against Dr. Douglass, lest his Lordship should suppose that I shrank from a fair Enquiry, which would prejudice me in his Lordship's opinion. The Court observed that, unless I produced the statement itself or a copy of it, the Court would not enter into the investigation. I repeatedly assured the Court that it was utterly impossible for me to do this, as that document had never passed through my hands; but the Court still insisted on my producing the statement or a Copy" (Statement, page 6).

From this manner of stating the case, Mr. Marsden would make it appear that he was ready, from the commencement of the Enquiry, to establish the charge referred to in Lord Bathurst's letter, but that he was prevented from doing so by the Court. Now the whole of this part of Mr. Marsden's Statement is incorrect; he did not declare that he was prepared to establish the charge; the Court did not require him to produce the Statement itself; he did not repeatedly assure the Court that it was impossible; the Court did not insist on his producing the Statement or a copy. The simple facts were these: when that part of Earl Bathurst's despatch was read, which related to the charge of illegal punishment, Mr. Marsden distinctly denied having sent any such statement to England, and disclaimed any appearance before the Commissioners to support it; his disclaimer was accordingly

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taken down by the Clerk, and entered upon the minutes of the day, where it remains in the following words:—

"Parramatta, 14th July, 1825.

"In reference to the 3rd charge, the Court enquired of the Reverend Samuel Marsden, who was present; if he would be prepared to support such charge, contained in Earl Bathurst's said despatch, against Dr. Douglass, for having caused a man to be flogged to extort a confession from him; whereunto the Reverend Samuel Marsden replied that he had never made such a statement to any Member of His Majesty's Government, nor, as far as he recollected, to any private individual; nor did he consider himself as in any manner preferring such charge, or appearing against Dr. Douglass to support the same. The Court was then pleased to adjourn until the 15th instant."

A copy of the above minute was furnished me by order of the present Governor; it is amongst the proceedings which were transmitted to England; and it is quite irreconcilable with the account which Mr. Marsden has given of the proceedings. That the minute is more to be relied upon than Mr. Marsden's statement will be admitted by every unprejudiced person; but the correspondence, which Mr. Marsden has published as a voucher for the accuracy of his account, will prove beyond a doubt that the statement is made up from the correspondence; and that what Mr. Marsden has related as having taken place before the Court on the 14th July, he has put together from the letters which subsequently passed between himself and the Clerk. It will be seen upon an attentive perusal of those letters that the resolution, which the commissioners came to not to be drawn beyond their instructions, was forced upon them by Mr. Marsden's letter of the 29th of July; that, up to that time, they had left it open to him to bring before them any case, which he would pledge himself to prove, and which they might consider as coming within the spirit of their commission. It was then that they thought they discovered, in Mr. Marsden's manner of proceeding, a want of candour towards themselves, as well as of fairness towards Dr. Douglass; he seemed desirous of leading them into inquiries, not authorised by their instructions, without holding himself responsible for the result, and, while he was careful to guard himself against the consequences of not being able to prove his charges, he was not unwilling to expose his adversary to the chance of investigations, grounded upon the hearsay information of any low persons, who could be brought forward to accuse him; the case of Henry Bayne had caused the commissioners to become a little wary of travelling out of their instructions. Mr. Marsden, in his letter of the 28th July, had called their attention to that case in the following manner; he had, he said, been accosted by Walton the flogger at Parramatta some time ago, who informed him that Bayne had been cruelly punished *on suspicion of a robbery*, and that, upon enquiry, he had satisfied himself that Bayne had been punished; and he proposed to offer proof of those particulars. The gist of this case was the punishment upon suspicion; and the Commissioners saw that, from the manner in which Mr. Marsden had, unintentionally as they supposed, put the case, he was not pledged to prove that Bayne had been punished upon suspicion, but merely that he had in fact been punished. They therefore reminded Mr. Marsden of the omission in his letter, in the expectation that he

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would immediately amend it and undertake to prove the material part of the charge, which he had rested upon the authority of the flogger; but the Reverend Gentleman evaded the point, and took issue upon the strict words of Lord Bathurst's instructions: the Commissioners joined issue with him on the same ground, and it was then, and not until then, that they "insisted upon his producing the statement itself or a copy," as an indispensable preliminary to any further proceeding.

It may be supposed that, if the facts stated be true, it were immaterial at what time or in what form of proceeding they occurred, whether on the 14th of July, or at a subsequent period, whether in the Court itself or in a correspondence with the Clerk. And that, as Mr. Marsden has published the correspondence, he has left it to his readers to determine how far his statement is correct. I certainly should not have complained, if this had been strictly the case. But there is a material difference between publishing the correspondence as the whole of the transaction which took place, and publishing it as in confirmation of a previous and distinct transaction. The correspondence is capable of two interpretations; considered by itself, it explains its own motives, and carries its own reasons for refusing to allow Mr. Marsden to pursue the course which he proposed; but, considered with reference to what is supposed to have taken place before, it becomes a mere voucher for the fact, and leaves Mr. Marsden at liberty to state that fact in his own way, and as may best support the conclusion, which he evidently intended to draw, and which he does in the following intelligent manner:—"the Court refused to investigate the fact which Lord Bathurst, in his letter, declared formed the substance of the statement; this was rejecting the kernel, because they could not have the husk; the statement was neither a declaration nor an indictment, which must be produced to shew that the allegations were to be proved; but this was a very convenient mode of *getting rid of the enquiry, and screening a friend*" (statement page 14).

However I may have had occasion to complain of Mr. Marsden's want of fairness in his statement of facts, I certainly have not the same cause for complaining of his manner of dealing with his Judges. He charges them candidly enough with sacrificing their duty to their feelings, and doing injustice to him, in order to serve their friend. Upon what experience of Official men, he may have formed his opinion of public principle, how far his long residence in this Colony may have taught him habitually to mistrust the honesty and suspect the motives of all the world, I cannot pretend to determine. But Mr. Marsden should have remembered that the office, to which the commissioners had been called, was neither of their own choosing nor very agreeable to them; that he had voluntarily submitted himself to their Jurisdiction, and therefore he could not, in common courtesy, turn upon his Judges and accuse them of partiality and injustice, merely because they differed in opinion with him as to the merits of his own case. With respect to the charge itself, I shall merely say that Dr. Douglass was no friend of mine; I never saw him in my life, until I met him at the Enquiry. I may venture to affirm that he was no friend of the Archdeacon's, and the Governor took very little part in our proceedings from an honorable sense, no doubt, that, as he had been the patron of Dr. Douglass, his judgment might be liable to some bias, and his

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motives exposed to misapprehension. I hardly feel called upon, therefore, to defend myself from the imputation of partiality towards an entire stranger. If I committed an error, it was one of judgment. But that my errors had at least plausible grounds to excuse them, the following exposition of my own view will shew.

I had been called upon by Earl Bathurst to enquire into the truth or falsehood of a particular statement, and to report upon it for the decision of His Majesty's Government; the statement itself, as I conceived, formed a necessary and an indispensable part of the case submitted to my investigation; it was necessary, not merely to supply the grounds of accusation against one of the parties, but to shew how far the other party had been actuated by a spirit of justice and fair dealing. Mr. Marsden was placed upon his trial, as well as Dr. Douglass, one for the truth and honesty of his statement, and the other for his guilt or his innocence of the charge. Mr. Marsden seems entirely to have overlooked his own case, and to have pursuaded himself that, if he could find out some charge upon the authority of somebody, which might lay a probable ground for further enquiry, the commissioners were bound to take it up and to prosecute it to conviction. I viewed the matter in a very different light. I was of opinion that a copy of the statement itself was not only the basis of our jurisdiction, but of our whole proceedings; that, without it, we had no authority to enquire at all, and any report, founded upon such an Enquiry, must be partial and imperfect.

I was also of opinion that the case of Henry Bayne, which Mr. Marsden had endeavoured to press upon us, was not such a case as we had been instructed to enquire into. It will be recollected that the charge preferred against Dr. Douglass was for "having ordered a convict to be flogged with a view of *extorting confession from him*," a charge very indefinite in its terms certainly, if it were to be tried upon the despatch itself; but the despatch referred, for the particulars of the charge, to the statement said to have been transmitted to England; and it had evidently been assumed by the Secretary of State that Mr. Marsden would be prepared, as soon as he was called upon, to produce a Copy of his statement; as we could not obtain the statement we had been referred to, it became necessary for us to consider with some care the exact nature of the case we had been authorised to investigate; and it appeared very clear to us, from documents which were transmitted from the Colonial Office, that the statement embodied a charge to this effect, that Dr. Douglass had, upon his own authority, ordered a Convict to be flogged, with a view of compelling him to furnish Evidence to convict himself. There is a wide distinction between such a case, and that of punishment inflicted after conviction by a competent Court with the view of effecting the restitution of stolen goods; and the attention of the Commissioners had been called to this distinction by a letter, written by Dr. Douglass in London to the Under Secretary of State, in which he admitted that cases of the last description had frequently occurred at Parramatta. His letter is as follows:—"With reference to the conversation I had the honor to have with you today, respecting the charge forwarded by Mr. Marsden against me, for having flogged a Man to *extort Evidence* from him, I beg leave to call to your recollection a letter I addressed to you on that subject, in which I stated to you the circumstances under which some men had been punished by order

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of the *Bench* at Parramatta. I beg to repeat those circumstances. It often occurred, when a convict was convicted of a robbery, and it appeared to the Bench he had disposed of the plundered property, the corporal punishment he was sentenced to receive was directed to be inflicted at intervals; and in case, at any time before the infliction of the entire punishment, he gave up the property, the remaining number of lashes were remitted, that is, in case the convict was adjudged one hundred or one hundred and fifty lashes for robbing a man of his clothes, twenty five lashes were ordered to be inflicted every second morning to the amount of one hundred or one hundred and fifty, and he was told, if he gave up the clothes or gave such information as would enable the police to obtain them, he would be forgiven the remainder of the corporal punishment." The case of Henry Bayne was exactly of this description. Bayne had been tried by Dr. Douglass and Dr. McLeod, sitting as Magistrates, upon a charge of stealing in a dwelling house goods above the value of five pounds, and he was convicted upon the Evidence of two witnesses, duly examined in open Court. For this offence he was sentenced to receive twenty five lashes every morning, until he confessed what he had done with the stolen property. By an order of the local Government, not more than one hundred and fifty lashes could be inflicted for any one offence, and Bayne received the limited number, in the course of eight days. The bare statement of the case of Henry Bayne is sufficient to shew that it was not such a case as the commission had been directed to Investigate; it was not a case of punishment on suspicion by the order of a single Magistrate for the purpose of extorting evidence of guilt; it was a case of punishment after conviction in pursuance of the sentence of a Court of Magistrates, with a conditional remission if the stolen property were restored; it was such a case as had been directly admitted by Dr. Douglass to the Secretary of State, and admitted, as having "often occurred." The Secretary of State had caused Dr. Douglass' admission to be transmitted to the commissioners, "thinking it but fair to him that the members of the commission should be made acquainted with it." With these facts before us, it would have been absurd to suppose that Lord Bathurst had taken the trouble of forming a Commission to enquire into the truth of an admitted fact. It was clear that the statement, which had been laid before His Lordship, contained something more than it was found convenient to prove in Bayne's case; and that something was precisely what we were directed to report upon. As we were not permitted to see the statement, our functions were at an end; but lest we might have mistaken our instructions, or have construed them too narrowly, we enclosed our correspondence with Mr. Marsden, together with the record of Bayne's case, to Lord Bathurst, in order that his Lordship, who had directed the Enquiry and reserved to himself the ultimate decision, might form his own judgment upon the case. What more could we do? Mr. Marsden would have had us do no more; the burthen of his complaint is merely this, that we refused to hear evidence to prove the case of Bayne. "The Witnesses, I had summoned to prove the charge in the case of Henry Bayne, were the Clerk of the Bench who had recorded the Judgment, the Constable who saw the sentence carried into execution, the flogger who inflicted the punishment, the Gaoler who counted the lashes, and Henry Bayne who suffered the punishment." The Commissioners

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did not require all this parade of proof; they sent for the records of the Parramatta Court, and examined the case of Henry Bayne, and, having satisfied themselves that it did not come within their commission, they dismissed it from further enquiry and reported to the following effect:—

"We beg permission to refer your Lordship to the correspondence which passed between the Court of Enquiry and the Reverend Saml. Marsden, touching the third point of Enquiry as directed, and from which your Lordship will perceive that Mr. Marsden was not prepared to produce the statement upon which the third point of Enquiry appears to have been grounded, and the truth of which statement we were directed to enquire into and report upon." Mr. Marsden, in his letter of the 28th of July, mentions the case of one Henry Bayne, who had received twenty five lashes on six successive days; but, as Mr. Marsden would not pledge himself to sustain the truth of his Statement in his said letter as to the material part, namely, the punishment being inflicted to extort confession of guilt; and as it appeared, by the records, that the punishment was inflicted after conviction for a capital felony for the purpose of compelling a discovery of the stolen goods; and, as the fact of having inflicted punishment under such circumstances had been distinctly admitted by Dr. Douglass in his letter to your Lordship's Under Secretary, the Court did not think that the case of Henry Bayne could be brought either within the words or the spirit of your Lordship's Instructions. The Court therefore considered themselves bound not to admit Mr. Marsden to sustain the naked fact which he proposed to prove; and therefore came to a resolution to dismiss the third point of Enquiry, and to acquit Dr. Douglass thereof; at the same time, *in order to enable your Lordship to judge of the nature of Bayne's case, they have caused a Copy of the record to be annexed*, together with such explanations as were deemed necessary to a right understanding of that case."

The report is in itself a complete answer to the first part of Mr. Marsden's charge against the commissioners; it does not merely refute his statements, it sweeps away the whole foundation of his complaint.

Passing of act of indemnity.

Secondly, Of the Bill of Indemnity.—This was a local Enactment of the Governor and Council, passed with the view of protecting the Magistrates of the Colony from vexatious prosecutions. Of this Act and its authors, Mr. Marsden expresses himself in the following manner:—"What will the world say, when it is informed that a Bill of Indemnity was introduced into and passed the Council to screen Dr. Douglass from the effect of legally established prosecutions!" "A charge of torture was transmitted to the Attorney General by Dr. Douglass against me, but without any Evidence to support it; yet just at that time this Bill of Indemnity is introduced to screen Dr. Douglass and myself and one or two other Magistrates, who are therein named, under the plea of asserted necessity, which plea was principally grounded on false and recriminating accusations against myself and others, who were thus condemned unheard. This was a masterpiece of insidiousness!" (*pages 16-17*).

The Proceedings of the Council are locked up in the confidence of the Members under the obligation of an Oath; yet Mr. Marsden states his facts as positively as if he had been in the secrets of

the Council Chamber, and casts his imputations as misparingly upon the whole body of the legislature, as he had before done upon the Commissioners of Enquiry. To reason with a person, who uses such arguments, were vain; we want a common language, a common rule, by which to estimate the actions of Men, a common notion of what is meant by charity. Mr. Marsden seems to think that all, who may happen to differ in opinion with him, must be influenced by impure motives: and he is, I daresay, sincerely thankful that he is not as other men. For myself and my colleagues, I must claim the common excuse of human fraiity; and, if the reasons I have to offer for the share I had in the Bill of Indemnity be not sufficient to justify that measure, I hope that it will at least be ascribed to an honest error of opinion.

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Shortly after the result of the Enquiries at Parramatta were made known, the period for holding the Court of Quarter Sessions in that Town arrived, and the case of Henry Bayne, which had occurred upwards of two years before, became the subject of a presentment in the following manner:—

"The Grand Jury further present that the first part of his (Bayne's) sentence was to *compel confession* from the said Henry Bayne, and that it appears, by the records of the Magistrates, that one witness only appeared against him, and her testimony *merely attached suspicion* no property being traced to him."

This presentment was published in the Newspapers by the authority of the Grand Jury. It will be seen that it grew out of the Enquiry; and that the Grand Jury took an opposite view of the case of Henry Bayne, from that which had been entertained by the Commissioners. The presented Magistrates were Dr. Douglass, Dr. McLeod and Mr. Lawson, the two last of whom had been witnesses in favour of Dr. Douglass at the Enquiry. It was to be expected that these Gentlemen would feel a little restless under the imputation, which had been publicly cast upon them; and Dr. McLeod addressed an official letter to the Attorney General, enclosing Extracts from the records of the Parramatta Court, by which it would appear that many other cases, similar to the case of Henry Bayne, had taken place in that Court, before any one of the presented Magistrates had been put in the commission of the Peace; and that among the Magistrates, who had tried those cases, were some of the Gentlemen of the Grand Jury. The Attorney General shewed me Dr. McLeod's letter, a day or two after the presentment had been published, at the Government House in Sydney, where he had attended for the purpose of communicating with the Governor; and, as far as my memory now serves me, I understood him to say that he should look into all the cases which had been brought under his notice, and put a stop to such as should appear to him to have proceeded from mere error in judgment on the part of the Magistrates. I saw the Governor in the course of the same day. His Excellency communicated to me a letter, which he had received from the Attorney General upon the subject of the presentments, and asked my advice how he should act in the very delicate situation in which he was placed. Dr. McLeod was at the time an inmate of his house; and Dr. Douglass had been confidentially employed by him. I felt some difficulty in advising the Governor; at the same time I saw that the presentments approached His Excellency too nearly to permit

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him to take any part whatever in them. I therefore suggested to the Governor the expediency of stating the whole circumstances of the case to the council, and requesting them to relieve him from a position of such peculiar embarrassment. I suggested this course in preference to that which I understood to be recommended by the Attorney General, because I thought that whatever the Attorney General might do would be attributed to the interference of the Governor. It were unnecessary to make any remarks upon the official privileges of the Attorney General; I am inclined to give that Officer full credit for acting in a way which he might suppose best calculated to serve the interests of the public; but the duties of his office bring him so immediately in contact with the Governor that his acts, however independent, would necessarily be ascribed to the direct authority of the Government; and this was exactly what the Governor wished to avoid. For this reason, I advised the Governor to place the whole case in the hands of the Council; his Excellency adopted my suggestion; the Council unanimously agreed to enter upon it, and they addressed the Governor to the following effect:—

"In compliance with your Excellency's desire, we have considered the letter of the Attorney General upon the subject of punishments inflicted upon prisoners in this Colony, and we beg that your Excellency would cause the records of the different Benches of Magistrates to be laid before the Council, as they deem it proper to take the whole subject into consideration, preparatory to giving any advice upon the matter referred to them by your Excellency."

This letter was dated the 30th of August, and was signed by all the Members who at that time composed the Council: at their desire, the Books of the several Magistrates' Courts were laid before them; and, after a very careful examination* of their proceedings, as far back as any Minutes had been preserved, it was established beyond a doubt that the practice of inflicting punishments, similar to that which had been awarded in the case of Bayne, was as old as the records of the Parramatta Court, and had been adopted by some of the earliest and most respected Magistrates in the Colony. The report of the Council was transmitted to England, together with all their other proceedings, in the ordinary course; and, being moved for in the House of Commons, it was published by order of the House on the 18th day of April, 1826. I must beg leave to refer to the report itself as containing a full and impartial view of the subject. Mr. Marsden, in his usual manner, affirms that the report of the council was grounded "on false and recriminating charges against himself and others," and that "these charges were supported by fabrications and forgeries of records." This is too serious an assertion to have been hazarded upon slight grounds, and I must suppose that Mr. Marsden had at least satisfied himself of its truth. Assuming the fact to be as stated by him, the Council cannot be held responsible for the correctness of the records, upon which they founded their report. They had occasion to enquire into a particular fact, and they consulted the records of the Parramatta Court as the best means of information. If those records have been so carelessly kept as to be unworthy of credit, the fault was with the Magistrates, not with the Council. Mr. Marsden had been, for many

* Note 126.

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years, an active Magistrate at Parramatta; how came the proceedings of his court to be so negligently recorded, as to be justly liable to the discredit which he has attached to them? And if indeed they were so little to be relied on, why did he propose to lay them before the Commissioners, to prove his charge against Dr. Douglass? Were they more credible then than they became afterwards, or did their credibility depend upon the occasion on which they were to be used? But I differ, entirely, with Mr. Marsden as to the fact. I believe the records of the Parramatta Court to be genuine, authentic writings, and not justly chargeable with being either fabricated or forged. They are written in a fair, continued hand, without any appearance of alteration, in Books kept for such purpose; the cases follow in a regular series of dates; and, until they were questioned by Mr. Marsden, I never heard a doubt raised as to their authenticity, although there might be occasional mistakes, owing to the negligence of Clerks and other accidental circumstances. The Council were apprized that the Clerk had been accustomed to enter the minutes fairly in the Books, some time after they were taken down; and, in order to correct any error, they carefully collated them with the warrants, which were signed at the close of each day's proceedings; and, with one or two exceptions, in which the error was palpable (such as the omission or addition of one Magistrate's name amongst many others) the Books were proved to be on the whole very correct. All Mr. Marsden's industry has not enabled him to produce a single instance to shake their authenticity. He has indeed proved, what is admitted upon the face of the report, that the names, which appear as the convicting Magistrates, are not always to be relied upon; and that he was not present at some of the cases, where his name so appears; but he has proved, at the same time, that the cases did occur and were tried and sentenced as they are recorded, although his name was inserted by mistake in some of them. That such cases did in fact occur, was all that the Council sought to ascertain; the presence of a particular Magistrate was quite immaterial, and Mr. Marsden himself has established the truth of the conclusion drawn by the council, that cases, similar to those which had been presented by the Grand Jury, had taken place, before any one of the presented Magistrates was in the Commission of the Peace. It should be remembered that the Clerk, in whose hand most of the cases referred to are written, was *Bradley*. This person has been since convicted in the Supreme Court of forging a Deed, and appearing in Court as a Witness to prove its execution. He was one of Dr. Douglass' accusers on the Enquiry; and he would not have been slow to appear as a witness against him, had there been a shadow upon which to raise a charge of forging records. But, assuming them to be fabrications and forgeries, the Council are not chargeable with that circumstance. They merely reported upon the facts as they found them; those facts formed a necessary part of their Enquiries; and, if they carry in them a silent and severe recrimination upon Mr. Marsden, it was the fault of his friends, whose imprudent zeal placed him in such a situation. The object of the Council was not to criminate, but to protect the Magistrates, for having exercized a power, which had been sanctioned by usage, although it was not defensible in law. They pursued their enquiries in private and they reported the cases, as they found them, in confidence to the Governor. If

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their report have been made public, I would beg to be informed at whose instance it was moved for in the House of Commons? Was it not by the friends of Mr. Marsden.

The report of the Council was followed by an Act for the protection of the Magistrates. The act explains the reasons upon which it was founded; it recites that the Justices of the Colony had in past years caused certain Judgments and Orders to be executed, which, although not imputable to any evil intention, were nevertheless not justified by law; and that, since the passing of the New South Wales Act, the Jurisdiction of the Justices had been more clearly defined, and their proceedings had become more regular; and it goes on to stay prosecutions against Magistrates for any Act done by them in virtue of their Office, before the establishment of Courts of Sessions with the summary jurisdiction given to them by Parliament. The local act only extended to criminal prosecutions; it left private remedies untouched; and it was limited to one year's duration. Mr. Marsden affirms that this Act was "introduced to screen Dr. Douglass." I introduced the Act, and I did it for the following reasons:—first, because I thought that the Presentment of the Grand Jury originated in party feeling; secondly, because I forsaw that, if the prosecutions were suffered to proceed, they would involve the whole Magistracy of the Colony; thirdly, because I knew that, however conscientiously the Magistrates may have acted, they had no legal ground of defence; and lastly, because the practice, which was complained of, had been already remedied by law.

1. That the prosecutions originated in party feelings, no one in this Colony will venture to deny. The time, the place, the persons presented, all clearly shewed that the presentment had arisen out of the Commission of Enquiry, and was intended to counteract its consequences, if possible, in this Colony; but, at all events in England, if it should fail in having the desired effect here. The very terms, in which the presentment of Bayne's case is drawn, carry internal Evidence of its having been prepared by some one who was privy to the correspondence between the commissioners and the Reverend Mr. Marsden. But the selection from the books of the Parramatta Court of particular cases, in which the three Magistrates only had been concerned, and the omission of other cases in the same Books, in which other Magistrates had been concerned with them, while it marked the spirit in which the prosecutions were commenced, proved the necessity for not suffering them to proceed. There is no principle of administrative Justice more clear in itself or more inflexible in its application than this, that Courts will not allow their high functions to be turned to the purposes of private resentment or political animosity. I have touched this point with tenderness, because it was the proceeding of a Grand Jury; and, for many of the Gentlemen who composed the Jury, I entertain a sincere respect; but personal considerations must not allow me to overlook the fact that, among the Grand Jurors who presented Dr. Douglass, were some who were in a state of the most open and avowed hostility with him, and who should not have permitted themselves to sit as Judges in his case. The oath of a Grand Juror prescribes that he shall present no man for malice or hatred, and withhold no man for favor or affection. No Grand Juror can conscientiously discharge the duties

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thus solemnly enjoined upon him, who sits in judgment upon his adversary.

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2. It was clear to me that, if the prosecutions thus inauspiciously commenced had been suffered to proceed, they would have involved in their course the whole Magistracy of the Colony. It was not to be supposed that 3 Gentlemen would silently permit themselves to be selected as public examples for doing that which had been done before, and by some of the persons who had accused them. They naturally impeached other Magistrates; who, in their turn, would as naturally have impeached others; until the Courts would have been filled with prosecutions, in which Magistrates would have accused Magistrates of inflicting punishments contrary to law, and the convict population, who had suffered the punishments, would have been called as witnesses to establish the accusations. Mr. Marsden had proposed this mode of proceeding in the case of Bayne. What effect such an experiment, if tried upon a larger scale, might have produced upon the stability of this society, must now remain a matter of conjecture. But that it would have weakened those feelings of good-will among the Magistrates, which are essential to the efficacious discharge of their duties, and have taught the prisoners to regard them as their oppressors, rather than their Judges, will not easily be disproved. I, for one, believed that the peace of the Colony would be endangered by the conflict of parties and passions, which these ill-timed presentments had brought into action; and therefore I felt the necessity of stopping them.

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3. However conscientiously the Magistrates might have acted, the Council knew that it would afford them no ground of defence; and that the merits of any particular case could not be investigated on a charge against a Magistrate for exceeding his Jurisdiction. Before the passing of the New South Wales Act in 1823, there was no power, legally vested in the Magistrates, to try and punish convicts in a summary manner. That Act, for the first time, created such a power, and consequently the mere fact of having exercised it before left the Magistrates defenceless and unprotected. The Court could not have enquired into the guilt or the innocence of the party tried by the Magistrate, or the justice and moderation of his punishment; the only question would have been, had the Magistrate a legal Jurisdiction to try the case? if he had not, then the Magistrate was in law a trespasser, and a verdict must have passed against him as of course; That such is the law cannot be denied; and it is a complete answer to the whole of that part of Mr. Marsden's Statement, in which he challenges enquiry into his conduct as a Magistrate. He admits that he exercised a summary Jurisdiction, unsanctioned by any law at the time; and, upon this mere admission, he would have been convicted without further enquiry. It were idle to urge the practice of the Colony; that practice had been declared unlawful by Parliament; the Courts could not have sustained it; and therefore it became necessary to resort to the protective power of the local Legislature.

4. Lastly, the presentments of the Grand Jury were out of time and unnecessary; The legitimate objects of the Grand Inquest are prospective and remedial; they should point out existing grievances or nuisances, with a view to their remedy or removal. The case of Henry Bayne was by-gone; it had occurred two years

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before it was presented; and the remedy had already been applied by Parliament, in the establishment of regular Courts. To what useful purpose then could it be to rip up the proceedings of past years, and prosecute the Magistrates for doing what they supposed at the time to be lawful?

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Such were the reasons upon which I founded my opinion of the necessity for passing the quieting Act. The success, which attended the measure, affords the best testimonial of its policy; but whatever difference of opinion may now be entertained of it, common candour will admit that the Council may have passed it from a conviction of its expediency, and common charity might have found some milder terms to apply to it than "a master-piece of insidiousness!"

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Reasons for making statement.

In the preceding remarks, I have confined myself to a refutation of the statements of the Reverend Mr. Marsden. If any expression have escaped me, which may not be considered as purely defensive, I should wish it to be expunged. I respect Mr. Marsden as an old and zealous Minister of Religion; and I can excuse his pamphlet the more readily because I think that it has not injured me in this Colony. In England, its effects may be different; and therefore I have explained my conduct fully to you, Sir, in order that I may not be undefended in Parliament. I cannot quit this part of the subject without offering a few observations upon the very extraordinary conduct of the Government Printer. After the enquiry at Parramatta had closed, the Editor of the Sydney Gazette lent himself to a very improper course of animadversion upon Mr. Marsden; and, by his ill-advised interference, gave a political appearance to the proceedings of the Commission, not more unjust in itself than it has been injurious in its consequences. Dr. Douglass was at that time the Clerk of the Council; he has since lost his office; and the Sydney Gazette, under the plea of a just and generous reparation towards Mr. Marsden, has published a series of attacks, not merely upon Dr. Douglass but upon the Commissioners. To the one, he imputes guilt; and to the others, a wilful disregard of their instructions from motives of partiality and injustice. In the Gazette of the 21st of May last, the following observations occur:—"here was either *fear* or *guilt* on the part of the accused, or *favor* and *affection* in the minds of the Court? we shall not determine which"; and he continues, "had we known at the time, upon what an *ingenious pivot* the acquittal of the accused happened to turn, we should have held up the man to public execration, who could so torture any unfortunate wretch, as poor Bayne was infamously and brutally scourged"; and again, "we must be allowed to express our astonishment that he ever so far *contrived matters* as to assume the duties of his situation as Clerk of the Council, *when Lord Bathurst's instructions were not apparently attended to.*" In the same spirit, the Editor has republished the most offensive parts of Mr. Marsden's pamphlet, adopting and circulating his attacks upon the late Governor and myself; and, in his Gazette of the 5th of September, he announces his intention of publishing a pamphlet on the same subject in the following manner:—"Dr. Douglass, the Reverend Samuel Marsden, and the Sydney Gazette. It appears there has been a great, if not an extraordinary demand for those numbers of the Sydney Gazette, in which articles have appeared relative to the above

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parties; we intend to strike off a pamphlet with all possible despatch *for the next Ship that goes to Europe*, containing all *those articles* which have attracted so much attention from the public of New South Wales, in which the *unvarnished and uncontradicted Statement of the Reverend Samuel Marsden will form a* conspicuous portion. From what we hear on almost every hand, *the celebrated court of Enquiry* at Parramatta in 1825 *will once more arrest the attention of Parliament.*" From this open avowal, it appears that the Sydney Gazette has become the instrument for preparing materials of future attacks in Parliament upon myself and the other Members of the late Government of this Colony, as well as upon His Majesty's late Secretary of State; for all our proceedings were confirmed by Earl Bathurst. Personally, I care as little for the censures as for the suffrages of any Newspaper; but the duty, I owe to my public station, compels me to notice the conduct of the Government Printer. I had been called upon, by the desire of His Majesty's Government, to perform a responsible and, at the same time, a very disagreeable duty; I discharged that duty to the best of my ability; I felt that my office as a Judge was as much pledged for the fairness of the enquiry and the justice of the report, as if I had sat in open Court. Was it consistent with the duty of a paper, used by the late Government as its official organ, presumed to a certain degree to have been in its confidence, and certainly enjoying the exclusive and ample profits of its patronage, to hold me up as one who had either acquitted a guilty person, or been influenced by motives of favor and affection, which of the two the Editor would not determine; and to insinuate that I had turned the case submitted to me upon an ingenious pivot, in order to get rid of it contrary to Lord Bathurst's instructions; and further, to hold out as a threat that the Editor would republish his attacks in order to assist Mr. Marsden, whom he represents as a deeply injured man, to obtain that justice in Parliament, which he had failed to obtain at my hands in this Colony! Had I done such things, I should have been no longer worthy to hold His Majesty's Commission as a Judge; and, if they are not credited by the public, it has not been the fault of the Sydney Gazette. My office will not allow me to defend myself; and that circumstance should have afforded me some protection, even if a sense of decency had not been sufficient to restrain the Editor from making the paper, used by the Government for promulgating its official Acts, the medium of assailing, in the most insidious and vital manner, the character and conduct of the Chief Justice of the Colony. In your hands, Sir, I place my whole case.

Criticism published in *Sydney Gazette.*

I have, &c.,
FRANCIS FORBES,
Ch. Justice New South Wales.

[Appendix A.]

Trial of H. Bayne.

THE following is the case of Henry Bayne, referred to in the Reverend Mr. Marsden's Pamphlet and in the foregoing letter, it is copied from the Books of the Parramatta Court, and was transmitted to the Chief Justice by the present Superintendent of the Police, Archibald C. Innes, Esqre., under date the 30th August, 1828.

Police Office, Parramatta, 31st March, 1823.

[*This report will be found on pages 801 and 802, volume XI, series I.*]

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[Appendix B.]

Trial of W. Murphy:

THE following case of William Murphy is selected from many other cases, referred to by the Council in their Report, dated September 27th, 1825, as being exactly in point with the last case in the form of the sentence, and as having occurred before *Dr. Douglass* and *Dr. McLeod* were in the commission of the peace in New South Wales, the former having been appointed and sworn in the 21st of July, 1821, and the latter the 17th of January, 1823.

Parramatta, 13th November, 1820.

[*This report will be found on page 874, volume XI, series I.*]

[Appendix C.]

and of W. Earles.

IN the 44th page of the Reverend Mr. Marsden's pamphlet, the case of William Earles is stated as follows:—

"Saturday, 27th July, 1822."

[*This report will be found on page 876, volume XI, series I.*]

After stating this case, Mr. Marsden remarks as follows:—

Statement by Revd. S. Marsden.

"From the above extract, certified by the Superintendent of Police, it is evident I was not on the Bench when William Earles was tried. If the Council had carefully examined the records in this case, they would have hesitated before they had inserted my name in their Report, as sanctioning this judgment. I consider it a case of little importance, further than it adds one charge more against me and at the same time shews the incorrectness of their Report and the unfriendly feeling that existed somewhere. I may be permitted to ask the Council if, in this trifling case, they have "done to others as they would that others should do to them"?

Reply by F. Forbes.

From the manner of stating the case, Mr. Marsden would make it appear that the Council had mis-stated the Records of the Court, which they had undertaken merely to report; as this would, if true, have been a severe charge against the integrity of the Council, and as, upon referring to their Report, I found that I, with the assistance of Lieutenant Governor Stewart, had collated Earles' case with the original Record, I caused the Books of the Court to be consulted, and the following copy of the whole of the proceedings of the 27th of July, 1822, as well as of the warrant for carrying the sentence into effect, which was signed at the close of the Sittings of the Day, will prove at once that the report of the Council is correct, and that the Reverend Mr. Marsden's extract, certified by the Superintendent of Police, contains a garbled account of the case, formed by putting together disjointed parts of the whole proceedings, viz., the date; the names of the two Magistrates who happened to take their seats, just before the case of Earles was called; and the particular minute of that case, the names of the presiding Magistrate, who afterwards signed the Warrant of Execution, and of the three others, among whom was Mr. Marsden himself, are ingeniously passed over:—

Proceedings of bench of magistrates at Parramatta.

Saturday, 27th July, 1822.

H. G. Douglass, Esqr.

RICHARD SMITH, Ship Baring, Sevt. to Mr. Hillas.

MR. HILLAS states, That he ordered him to come and see his work measured; he would not do it; he ordered him to work by the line;

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Proceedings of bench of magistrates at Parramatta.

he would not do that; he did not; on his mentioning going to Parramatta, he said, here, I am going to Parramatta to get it over my Goat: he has before been insolent to him.

Sentenced to receive Fifty Lashes, and be confined one week on bread and water.

John Palmer Esqe.; The Revd. Samuel Marsden; and John Blaxland, Esqe.

William Crow to be worked in the Gang at the Barrack for 3 months on half a ration.

[*Here followed the report of the case of Edward Hanabus, see page 764, volume XI; also of William Earles, with the names of G. T. Palmer, Esqre., and John Harris, Esqre., as additional magistrates.*]

Here follow in order 13 cases of Prisoners, which were heard and determined by the Bench on the 27th of July, without any other mention of the Sitting Magistrates. The transcript of the proceedings was furnished by the present Government, and is certified by Archibald C. Innes, Superintendent of Police at Parramatta.

[*Here followed the warrant of execution in the case of Earles, upon which the following list of presiding magistrates appears*:—]

Court of Magistracy:—Parramatta, July 27th, 1822.

Present:—Henry Grattan Douglass, Esqre. In addition, Present: The Revd. Samuel Marsden; John Palmer, George T. Palmer, John Blaxland, and John Harris, Esquires.

[Enclosure No. 2.]

Governor Darling to Chief Justice Forbes.

Sir, Government House, 14th October, 1828.

Letter to be transmitted to England.

I have been prevented by indisposition and a press of Business, from acknowledging the receipt of your letter of the 2nd inst. enclosing a letter addressed by your Honor to the Right Honorable the Secretary of State, which, for the above reasons, I have not yet had it in my power to peruse. But I beg to acquaint you, without further loss of time, that the latter shall be forwarded as you desire with my first Despatches to England, and you shall be made acquainted with the name of the Vessel by which it is transmitted.

I should have done myself the honor of forwarding the Document which you are desirous of obtaining from the Police Office at Parramatta; but I have felt it necessary to call on the late Superintendant for an explanation of the circumstances, alluded to in your letter* of the 7th October, 1828. I have, &c.,

Ra. Darling.

[Enclosure No. 3.]

Governor Darling to Chief Justice Forbes.

Sir, Parramatta, 27th October, 1828.

Letter in reply to statements by Revd. S. Marsden.

It has not been in my power, until just now, to peruse the letter which you have forwarded to me for transmission to the Secretary of State, in reply to the Reverend Mr. Marsden's Pamphlet. As you consider that the Statement it contains imputes to you and the honorable persons, with whom you were associated in the Enquiry alluded to, motives of Impartiality and injustice,

 * Note 127.

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Proposed submission of letter to Revd. T. H. Scott.

I request to be informed whether there is any objection on your part to your Letter being communicated to the Archdeacon, who was a Member with you of the Court of Enquiry and is now on the spot.

I have, &c.,
Ra. Darling.

[Enclosure No. 4.]

Extract from Chief Justice Forbes's Letter to Lieut. General Darling, dated 28th October, 1828.

"Sir,

Refusal to permit disclosure of letter to Revd. T. H. Scott.

"I have the honor to acknowledge the receipt of your Excellency's letter of yesterday, requesting to be informed whether there would be any objection on my part, to my letter to the Secretary of State, dated the 30th ult. being communicated to the Archdeacon, who was a Member of the Commission of Enquiry. Private inclination would induce me to wish that my letter should be made as public as possible in this Colony; but my Office forbids that; and therefore I have an objection to any partial communications, which may lead to partial publications, and compel me either to submit to insult or to condescend to vindicate my Character in the Colony. The Sydney Gazette of today* affords sufficient proof of the facility with which confidential communications are disclosed, and the avidity with which every occasion is sought or invented by the Government Printer for indecent animadversion upon the Chief Justice. The Archdeacon has, doubtless, been apprized of Mr. Marsden's Pamphlet, and has exercised that common right, which belongs to every man, of dealing with Slander in the way he may think it deserves. I have carefully confined my defence to my own Acts and Opinions, and, as it can be no secret that I am the person principally aimed at in Mr. Marsden's Pamphlet, I could wish that the matter at issue between the Reverend Gentleman and myself may rest upon our respective Statements. I have therefore to renew my request that your Excellency will forward my letter to the Secretary of State by the first opportunity to England, with such remarks as you may think proper to make upon it."

[Enclosure No. 5.]

Extract of a Letter from Lieut. General Darling to Chief Justice Forbes, dated 30th October, 1828.

"I find in attending to the latter part of your letter of the 28th, which has reference to that of the 7th, and to which I have felt much disappointment in not having had it in my power to reply before this, that I have passed by the subject with which your last letter commences. I mean with respect to communicating to the Archdeacon the letter, which you have addressed to the Secretary of State, and which, as you object to it, I shall certainly not do.

Allusions in *Sydney Gazette*.

You notice, in your Letter of the 28th, the allusion in the Sydney Gazette of that day to the subject of the above Letter. It will, however, be seen that this subject was strongly adverted to in the previous Gazette* of Friday, the 24th Inst., at which time I had not read your letter to the Secretary of State, though in possession of it for several days, but was induced to do so in consequence of the observations in the Gazette. I was, therefore, not aware of its contents until the night of Saturday the 25th. The Letter was constantly in my own immediate possession; no person had seen

* Note 128.

it or could have seen it; and the Editor of the Sydney Gazette could not have obtained his information from any person officially or otherwise connected with me." 1828. 8 Nov.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Caroline; acknowledged by Sir George Murray, 27th August, 1829.)

Sir, Parramatta, 8th November, 1828.

I do myself the honor to transmit for your information the Copy of a Correspondence, which has taken place between Chief Justice Forbes and myself, and which commenced on his part by requesting to be furnished with an Extract from the Proceedings of the Parramatta Bench of Magistrates in the case of *Earles,* as will be seen by his letter of the 7th Ult. in order that he might be enabled to contradict Mr. Marsden's "Statement," respecting that case. Transmission of correspondence with F. Forbes.

I felt it necessary, in consequence of the observations contained in Mr. Forbes's Letter, which so strongly impeaches the integrity of the Superintendent of Police, who furnished Mr. Marsden with the Extract alluded to, to call on that Gentleman (Mr. Lockyer, late Major of the 57th) for an explanation, and I shall leave you, Sir, to judge whether the explanation, he has given in the enclosure No. 2, is satisfactory. I have since examined the Original Records myself and can vouch for the correctness of what he states. Explanation by E. Lockyer.

Mr. Forbes having called my attention, in a letter which he wrote to me on the 28th ult., to one which he had addressed to me on the 7th of last Month, above referred to, I wrote to him in reply on the 30th, transmitting the Explanation of Major Lockyer just now adverted to.

I enclose a *Copy* of my Letter rather than an Extract, in order to prevent any misconception, though part of it only relates to the Question now immediately referred to.

I stated in that Letter to the Chief Justice what I had ascertained the practice to be, namely, that Magistrates continue on the Bench as long as their presence is necessary, or it may be convenient to them; and that, as others enter and take their seats, those, who previously sat, generally withdrew at the close of the case then under investigation. I am besides led to believe, there is no instance of a Magistrate ever sitting to judge of a case brought forward by himself. Procedure adopted by magistrates.

In support of what I have now stated, I beg to enclose the Copy of a Letter from the Superintendant of Police in Parramatta, stating the practice of the Bench in the cases alluded to.

You will observe, Sir, in Mr. Forbes's Reply (Enclosure No. 4) to my letter of the 30th ult., that it is assumed that all the

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Procedure adopted by magistrates.

Magistrates were present, as no Note was made of any of them having retired. It is shewn, by Enclosure No. 3, that no such note is ever made when a Magistrate retires; and he further observes that the conjecture that only two were present at the trial of Earles' case "did not happen to be true, is clear, because the Warrant for Executing the Judgment is actually signed by Dr. Douglass, as the Presiding Magistrate." It might be observed, in reply to this, that Dr. Douglass was the Superintendant of Police at the time, and that it was his immediate duty constantly to attend the Bench.

Mr. Forbes proceeds as follows, "and another of the Magistrates, to whom I casually shewed the case, recollected the circumstance and concluded that he must have been present at the Trial, as the day's proceedings state that he was, although his name also is omitted in the certified Copy of the Case."

I have only to observe, it is very little to the purpose, if this Magistrate, whoever he may be, merely *concludes* that he must have been present, because the proceedings did not state, what is never stated in any case, that he had withdrawn.

Explanation tendered by Revd. S. Marsden.

It now, Sir, only remains for me to forward the Copy of a Letter from the Reverend Mr. Marsden on the same Question. This Letter was not called for in any way by me, but I conclude Mr. Marsden conceived it to be a proper opportunity to offer his explanation of a matter in which he was immediately concerned, and which was a topic of general discussion.

You will not fail, Sir, to observe that it appears by Mr. Marsden's Letter, who is one of the oldest residents in the Colony, and who served many years as a Magistrate, that it never has been the practice of the Magistrates to sit in judgment on a Case brought forward by themselves.

It was my intention not to have entered into this matter, as it is one in which I am not publicly concerned or privately interested; but I have felt myself called on to point out the practice, which, if not sufficiently formal, as would appear from the Arguments of the Chief Justice, I shall give the necessary directions to have altered, so that it may be seen when a Magistrate withdraws from the Bench as well as when he takes his seat.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Chief Justice Forbes to Governor Darling.

Sir, Sydney, 7th October, 1828.

I am extremely sorry to be obliged to intrude once more, upon your Excellency's attention, in a case which merely affects myself as a Member of the Legislative Council under the late Government; but, as it appears to me that the Government was

His Majesty's Government, and that the Secretary of State will feel himself as much called upon to vindicate its proceedings from unjust aspersions, as if it were now in being, I trust your Excellency will see the propriety of my addressing you as the medium through which I ought to obtain the Documents, I have occasion for, to contradict Mr. Marsden's Statement. Referring to the 44th Page of that Statement, your Excellency will find the case of "William Earles," a copy of which it would appear had been furnished by Francis Beddek, Clerk to the Bench, and certified by E. Lockyer, Superintendant of Police. Mr. Marsden cites this case as "shewing the incorrectness of the Report of the Council and the unfriendly feeling that existed somewhere." As I, with the assistance of Colonel Stewart, collated the cases copied into the Report* with the original entries in the Books, I was inclined to suspect that there might be something wrong in Mr. Marsden's Edition of the case of Earles; and, accordingly upon examining the Books at Parramatta last Saturday, I have ascertained that the Report of the Council is correct, and that the certified copy of Earles' case is false in this most important fact: it omits the names of any Magistrates before those of G. T. Palmer and John Harris, although their names are introduced with the words "in addition" immediately before them, which plainly shews that there were other Magistrates on the Bench at the time; and, by referring back to see who those Magistrates were, it appears that among them is the Reverend Mr. Marsden. This omission I have no hesitation in believing to be designed, and it is a palpable suppression of the truth in copying and certifying a public Record.

1828. 8 Nov.

Certified copy of trial of W. Earles published by Revd. S. Marsden.

I have therefore, as I intend to annex this case to my letter to the Secretary of State, to request that your Excellency will be pleased to cause the present Superintendant of the Police at Parramatta to transmit a true and certified copy of the Record in William Earles' case, tried in July 27th, 1822, with the names of the several Magistrates, who appear by the proceedings of the day to have been present, to your Excellency, together with a certified Copy of the Warrant of Execution (lately returned from the Council Chamber). And I have further to request that your Excellency will cause the same to be afterwards transmitted to me, with a regular Certificate, to accredit the same to His Majesty's Government.

Request by F. Forbes for certified copy of trial.

I have, &c.,

FRANCIS FORBES.

[Enclosure No. 2.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Parramatta, 30th October.

Sir,

I have just now had the honor to receive your Letter of the 28th inst. and am sorry it has not been in my power, until the present moment, to forward to you, agreeably to your wish, a "Copy of the Record in William Earle's case, tried in July 27th, 1822."

Delay in reply to letter.

The absence of Major Lockyer, the late Superintendant of Police at this place, who furnished the Reverend Mr. Marsden with the report which appears in the Statement published by that Gentleman, has in some degree led to this delay, as I felt it necessary to call on him for an explanation of the matter, in consequence of the observations contained in your letter of the 7th inst., and I

Explanation by E. Lockyer.

* Note 129.

1828. 8 Nov. now enclose a Copy of Major Lockyer's Letter, with an attested Copy of the Proceedings of the Bench, on the occasion alluded to, from their commencement to the close of Earle's case.

I have only this morning received from the Colonial Secretary, a Letter dated yesterday, addressed to him by the present Superintendant of Police, with a Copy of the whole Proceedings on the 27th July, 1822, which I have not thought it necessary to forward, as it corresponds with the Enclosure to Major Lockyer's Letter to the conclusion of Earle's case, but contains several other immaterial cases subsequently tried that day.

Missing warrants of execution. If appears that the Warrant of Execution, with a certified Copy of which you request to be furnished, cannot be found. The Superintendant of Police states that, "on reference made to the Gaoler for the Warrant of Execution, he states that he has no Warrants of Execution in his possession, for the year 1822."

[*Here followed a repetition of enclosure No. 5 to the despatch numbered 124; see page 434.*]

As to the Question itself, it is one in which I am in no respect concerned, and I have no intention of transmitting any Remarks on the subject. But should you consider it necessary to enter into Earles' case, I request in justice to Major Lockyer that a Copy of his letter in explanation may be forwarded at the same time, though I apprehend it is not to be Inferred, from the Minute of the Proceedings as enclosed, that the whole of the Magistrates continued on the Bench throughout the day. I understand it is not the practice. In general they continue so long as is convenient or necessary and retire when others join the Bench.

Explanation by E. Lockyer to be forwarded.

I have, &c.,
RA. DARLING.

[Sub-enclosure.]

MAJOR LOCKYER TO COLONIAL SECRETARY MACLEAY.

Sir, Parramatta, 25th October, 1828.

Letter acknowledged. I have the honor to acknowledge the receipt of your letter of the 11th Instant on Monday last, the 20th, on my return from a tour of inspection of the Roads, enclosing a Copy of one from His Honor the Chief Justice relative to a statement, published by the Reverend Samuel Marsden, of the case of William Earle, heard before the Parramatta Bench on the 27 July, 1822.

Copy of trial of W. Earles given to Revd. S. Marsden. In explanation, I beg leave to state to you for the information of His Excellency the Governor that, the Reverend Mr. Marsden having requested of me, in my then situation of Superintendent of Police, Copies of certain cases from the public Records of the Police Office at Parramatta, and which were by my permission given, and also at the desire of Mr. Marsden certified by me, a Copy of the Case of Earle being handed to me with the original Record, I compared them both, and, having ascertained that the copy was correct as to that particular case it commencing with the Names of the Magistrates at the head of the page, certified to it.

Transmission of full copy of proceedings. I now enclose a verbatim Copy of this case of Earle, commencing with proceedings that had previously taken place before the Bench on that day, namely, the 27th July, 1822, by which it will appear that the two Magistrates presided as certified by me to that particular case, and I beg to observe that the words "in addition" do not appear in the original record before the Names of the Magistrates, though such appears to have been added in a

Copy of the Proceedings; I therefore assert that I had not, neither could have had the most distant cause for suppressing the name of any Magistrate present on that day, and that I merely certified to that particular case, as I would have done had any other Individual requested of me a Copy of a particular case, as the Reverend Mr. Marsden did. 1828. 8 Nov.

With every proper respect for the high rank and station of His Honor the Chief Justice, I feel myself much aggrieved from the following remark contained in his letter:— Protest against remarks by F. Forbes.

"This omission I have no hesitation in believing to be designed, and it is a palpable suppression of the truth in copying and certifying a Public Record."

Such a gratuitous insinuation being without the slightest cause, highly prejudicial to my character as a Public Officer, and to my private one as a Gentleman.

I therefore trust that the explanation given, with the Copy of Proceedings enclosed of the 22nd July, 1827, from its commencement to the conclusion of the Case of Earle, will at once fully prove that I am utterly incapable of lending myself to so base an action.

I have, &c.,

E. Lockyer,

Late Supert. Police at Parramatta.

[*A copy of the proceedings of the magistrates on the 27th July, 1822, was annexed; see pages 432 and 433.*]

[Enclosure No. 3.]

Mr. A. C. Innes to Colonial Secretary Macleay.

Sir, Police Office, Parramatta, 7th November, 1828.

In answer to your Letter of the 5th inst., requiring me by directions of the Governor to refer to the Records of Proceedings in the Police Office under my control, and to acquaint you for His Excellency's information with the following particulars, vizt.:— Practice in entering names of magistrates in records of proceedings.

"When Magistrates attend during part only of the day, what is the practice with regard to noting the circumstances in the Books; that is, are their names entered on taking their Seats on the Bench, and is any note made at the time of their withdrawing or retiring from it."

I now have the honor to report for His Excellency's information that, by the Records of the Bench, it appears Magistrates entering and taking their Seats on the Bench at any time during the course of Trials, their names invariably have been affixed at the head of the proceedings of the day, until January, 1821, at which period, it appears, Magistrates attending during part of the day's proceedings, their names are on the Records at the period of their entering, or *rather* at the commencement of the first case after they have taken their Seats on the Bench; but in no instance can I discover any note made at the time of their withdrawing or retiring from the Bench; nor is it the practice at present to make any note of the circumstance when they withdraw, tho' they frequently do so during the proceedings.

As relates to that part of your Letter which states, "Also, in the event of a Magistrate being the informant or Prosecutor, is it the custom of such Magistrate to interfere in any way in the conduct of the case, or to vote with the other Members in coming to a decision upon it." Procedure in cases involving a magistrate.

1828.
8 Nov.

Procedure in cases involving a magistrate.

I have further the honor to report for His Excellency's information that it is not nor ever has been the custom at this Bench, as I have been informed by the Magistrates, for a Magistrate, being the Informant or Prosecutor, to interfere in any way in the conduct of the case or to vote with the other Members of the Bench in coming to a decision upon it.

I have, &c.,
A. C. Innes, Supt. of Police.

[Enclosure No. 4.]

Chief Justice Forbes to Governor Darling.

Sir, Sydney, 31st October, 1828.

I have the honor to acknowledge the receipt of your Excellency's letter of yesterday, enclosing a Copy of a Letter from Major Lockyer to the Colonial Secretary, and an attested Copy of the proceedings of the Parramatta Court of Magistrates on the 27th July, 1822. I have to thank your Excellency for them; and I should not have troubled your Excellency again upon the subject but for the following remark in your Excellency's letter, namely, "I apprehend it is not to be inferred from the Minute of the proceedings, as enclosed, that the whole of the Magistrates continued on the Bench throughout the day. I understand it is not the practice; in general, they continue as long as is convenient or necessary, and retire when others join the Bench." With the greatest respect for your Excellency's opinion, I apprehend that all the Magistrates whose names appear upon the face of any day's proceedings must, in certifying any particular case, be presumed to have been present, unless the contrary be shewn. It is not mentioned in the proceedings that, when the two last Magistrates took their seats, and the case of Earles was called, that the other Magistrates, who were there before, quitted the Bench; and, as that fact does not appear, it was not competent to those persons, who were called upon to copy and certify the case, to supply its place by a conjecture of their own, and to give color to a fact, which they could not know to be true, namely, that the two last arriving Magistrates only were present at the trial of Earle's case. That this conjecture did not happen to be true is clear, because the Warrant for executing the judgment is actually signed by Dr. Douglass, as the presiding Magistrate; and another of the Magistrates, to whom I casually shewed the case, recollected the circumstances, and concluded that he must have been present at the trial, as the day's proceedings state that he was, although his Name also is omitted in the certified copy of the case.

Interpretation of record of proceedings of magistrates.

But whatever may be the fact, whether Mr. Marsden was present or not, the Copy of the case of Earle's, as certified by the Superintendent of Police and published by Mr. Marsden, is a partial, and consequently a false Copy. The act of certifying the Records of Courts is one of frequent occurrence, and is a very formal proceeding; and the Names of the convicting Magistrates is one of its most essential parts. It is the duty of those officers, who are entrusted with the keeping and authenticating of Records, to certify the whole proceedings as they find them, and not, by certifying partial extracts, to incur the hazard of leading to erroneous conclusions. The case of Earle's stands thus: the Police Magistrate of Parramatta is called upon to certify the correctness of the Copy of a particular record, which undertakes to set out the Names of

Criticism of copy of record published by Revd. S. Marsden.

1828.
8 Nov.

Criticism of copy of record published by Revd. S. Marsden.

the convicting Magistrates; but, upon comparing the Copy with the original Record, it appears that the proceedings of the day had not commenced with the particular case, and it is necessary to refer back for the date; in doing this, the Names of the presiding Magistrate, and of three others, present themselves; and it does not appear that they had retired when the case of Earles was tried. How could the Magistrate assume that they were not present, and properly affix his certificate to an extract, omitting their names, and giving only two others, as "a true Copy" of the Record of the case? I feel myself fully borne out by the documents now in my possession in holding the Copy in question to be a false Copy of a Record; and, when I consider the object for which it was evidently obtained, and the purpose to which it has been applied, I cannot for one moment suppose it not to be the effect of contrivance somewhere. As Major Lockyer disclaims any intention of misleading, I must acquit that Gentleman so far upon his own word; but I do not think he is entitled to assume the tone which he has used in his letter to the Colonial Secretary. Through him, however unintentionally, a very great public wrong has been done to the character of the late Government of this Colony, a Government, as much His Majesty's as the present, and composed of Gentlemen as fully sensible of the obligations of their high Office as any with whom I have had the honor to be associated. The first of those obligations requires that all, who accept of responsible offices, should be competent to perform their duties; and there are few offices in this Colony more responsible than that of Superintendent of Police, and there is no duty, which requires more discretion in the performance, than the certifying of Records; such instruments are of high legal force; and errors in them may be productive of the most serious evils. Were I called upon for an instance, I could not find one more impressive or in point than that which is now before me. The Governor of the Colony was induced to bring a Case of peculiar difficulty before the Council; the Council, as a preliminary step, deemed it necessary to consult the records of the different Magistrates' Courts, and they reported the cases they referred to as they found them, explaining every matter which admitted of doubt; the report* of the Council was transmitted to His Majesty's Government, by whom it was laid before the House of Commons in justification of a public measure; an individual in this Colony, imagining some censure to be inferred against him, applies to the Police Magistrate of Parramatta for materials to contradict the report of the Council, and he obtains a partial extract certified as a Copy of the record of the case, but containing only so much as suits his purpose, and is calculated to present a very unfair view of the fact, and to enable him to give the lie to a solemn act of the Legislature of the Colony. For this Major Lockyer's excuse is either that he did not understand the duty he had undertaken to perform, or that he had performed it most inadvertently. Which ever may be the fact, he is not entitled to assume the tone of complaint, which he has thought proper to adopt. I certainly will send his explanation with the case itself to the Secretary of State; but I think it but fair to Major Lockyer to say that his explanation would have been more satisfactory, if he had stated distinctly, first, that he was not aware of the purpose for which Mr. Marsden applied for a certified copy of the Case of Earles; and secondly that, in comparing the Copy with the original Record, and referring

Criticism of action of E. Lockyer in certifying copy of record.

* Note 129.

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to the date of the proceedings, he did not observe the names of any other Magistrates as being present on that day, except the two which are prefixed to the certified Copy.

Communication of letter to editor of *Sydney Gazette*.

I beg leave, in conclusion of this letter, to assure your Excellency that I never for an instant imagined that you had sanctioned the communication of my letter to the Secretary of State to the Editor of the Sydney Gazette; but, as I had given that letter to three officials of the Court to Copy, with a desire that it might not be disclosed, and as upon the publication of the Gazette* of the 24th instant (erroneously referred to by me as of the 28th) they assured me that the disclosure had not been made through them, it became impossible for me to tell how it had happened, that the printer might, as he says, "have been obliged with a glance at this answer, on condition that he made no use of it." It would perhaps have been the easier way to suppose that which now turns out to be the fact, that the Printer stated what was not true. But it served as a theme for abusing the Chief Justice, and, whether true or false, was of little account with the Government Printer.

I have, &c.,

FRANCIS FORBES, Ch. Justice.

[Enclosure No. 5.]

REVEREND SAMUEL MARSDEN TO COLONIAL SECRETARY MACLEAY.

Sir, Parramatta, 29th Octr., 1828.

Statement by Revd. S. Marsden *re* trial of W. Earles.

I have examined the Original Records of the Bench of Magistrates at Parramatta in the case of William Earles, which was heard on the 27th of July, 1822.

It appears that several cases were before the Bench on that day, some before and some after Earles.

Earles case begins a New Page, and was entered as follows:—

"G. T. Palmer, Esqe.; John Harris, Esqe.

"William Earles, attached to the Clearing Gang on the Estate of the Reverend Samuel Marsden, ordered to be confined in a Cell on Bread and Water, until he tells where an Absolute Pardon is, given to him by John Darragh to take to Dr. Douglass."

It appears from this Record that Earles was employed as a labourer on my Estate. It has ever been and continues to be the practice of Parramatta Bench, when any Man or Woman in the Employ of any Magistrate belonging to that Bench is brought forward, charged with any offence, the Magistrate, in whose employ such a servant was, gives in the case.

The Magistrate may be in the Court as a private individual: and common courtesy would not oblige him to leave the Bench at the time the complaint was heard and Judgment given.

It appears also from the Records that I was at the Court some part of the above day, and I might or I might not have been present when Earles case was investigated; If I was present, I certainly was not present as a Magistrate.

It is not credible that I should even wish, or that the Bench would allow me to decide in a complaint made against a man in my Employ, contrary to the established Rules of the Bench in all cases.

The Records clearly shew that G. T. Palmer and John Harris were two Magistrates, who decided the case, as stated in Major Lockyer's Certificate, as their names appear at the head of the Proceedings against Earles, and no other Magistrate's Name.

* Note 128.

Should it be presumed that other Magistrates might be present, it does not alter the case with respect to myself. 1828. 8 Nov.

Had I been called upon as a Magistrate to give a certificate of this case, I should have given it in the very words entered upon the Records, as Major Lockyer has done. "I am still of opinion, if the Council had carefully examined the Records in this case, they would have hesitated before they had inserted my Name in their report as sanctioning this Judgment"; for this simple reason. Earles was a labourer on my Estate, and also that the Names of G. T. Palmer and John Harris, Esqrs., are the only Names at the Head of the Proceedings in this case. I have, &c.,

SAMUEL MARSDEN.

Statement by Revd. S. Marsden *re* trial of W. Earles.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch per ship Caroline.)

Dear Sir, New South Wales, 8th November, 1828.

I have received your Despatch informing me officially that His Majesty had been pleased to confide to you the Seals of the Colonial Department; and I beg to congratulate you on an event which has indeed afforded me the most sincere satisfaction. I am, however, not without apprehension that you may find this Government a very unpleasant addition to your other duties. To me, it has been a most arduous one, insidiously opposed as I have been for nearly the last two years by a Man of unparalelled craft and subtlety.

Congratulations on appointment of Sir G. Murray.

Irksome government.

Knowing how much you must be engaged, I shall proceed at once to the immediate object of this Letter, which will furnish another proof, though it can hardly have escaped your notice, that I have not been wrong in designating Chief Justice Forbes as an opponent of Government. I perceive, by the "Morning Chronicle" of the 21st of June, that Sir James Mackintosh is reported to have said in the discussion on the New South Wales Bill "and Mr. Chief Justice Forbes, a learned, experienced and sensible person, now the Chief Justice of New South Wales, from whom he had lately received a Letter stating that from his judicial experience he was fully convinced that the introduction of trial by jury would be of essential benefit in the administration of justice, and laughing to scorn all notions that this Colony was not as well qualified for this privilege as any other Colony"!

Alleged opposition of F. Forbes.

Opinion by F. Forbes *re* trial by jury.

It is unnecessary for me to make any comment on this proceeding on the part of Mr. Forbes; you will judge how far it is consistent with the station he holds, to put himself in communication with Persons in opposition to His Majesty's Government, and furnishing those Persons with the means and information to defeat the measures proposed by Ministers. Such, however, has been Mr. Forbes' invariable course of proceeding

Information given by F. Forbes to members of opposition.

1828. 8 Nov.

with respect to the Colonial Government. I have shown repeatedly that the Australian Newspaper has published matter, which could only have been communicated by the means of Mr. Forbes. The subject is however unpleasant and tedious, and I shall very willingly avoid going over it again. But I cannot close my letter without adverting to another fact, and you will then see how impossible it is that this Government can be properly administered, while Mr. Forbes continues a Member of it. It has appeared in one of the Colonial Papers, and is, I understand, well known here, that Mr. Stewart's Motion in the case of "Sudds and Thomson," the result of which has not yet reached us, was postponed to the 8th of July in consequence of the illness of Sir Charles Forbes, who is the personal friend and I believe relation of the Chief Justice. It is, therefore, not difficult to conjecture who supplied the information necessary to this case being brought before Parliament; and I may repeat, how is it possible for me, with such a Colleague, to conduct the Government with advantage. He manages to occupy a great portion of my time in controversies of one description or another, and cavils at everything, knowing I am in fact without any competent legal adviser. This has been my misfortune ever since my arrival. Mr. Bannister, the first Attorney General, to say the least was eccentric and a man of no legal experience. His successor, Mr. Baxter, who is known to you, speaking of him as a Lawyer, is without information, experience, or talent, and withall does not compensate these defects by application. He is however, well disposed, but this is not sufficient in a young Colony, where more than ordinary exertion is necessary. Mr. Sampson, the Solicitor General, on whose *complexion* I shall make no comment, is a very assiduous young man but without any experience. With these two Gentn., I have been left to contend with the Chief Justice, Dr. Wardell and Mr. Wentworth, who are acute, practical Lawyers, and, by their talents and other means, have hitherto succeeded in foiling the Government in every attempt it has made in the Supreme Court.

Objections to F. Forbes as member of government.

Inexperience of attorneys and solicitor-general.

I pursuade myself you will not believe that I am prone to complain or that I do so unnecessarily, when I express my opinion that I have not been supported by your Predecessor in a manner, which the peculiarity of my situation and my exertions in the discharge of the duties of a most arduous situation have given me a claim to. I have been left totally unsupported for a considerable period, ever since my Lord Goderich was in Office, which I have no hesitation in saying has encouraged the evil disposed to shew themselves in a way they would not have attempted, had Mr. Forbes's proceedings been

Want of support from W. Huskisson.

promptly noticed. They saw besides that the News Papers poured forth their foul abuse, unrebuked by the Govt. at Home, and they laughed at the Govt. here, knowing that its efforts to put them down were ineffectual. You will naturally ask, what could have occasioned Mr. Forbes's hostility and opposition. I might reply that I am not the first Governor with whom he has disagreed. But I most solemnly assure you, I am not aware of any cause, unless he was dissatisfied at my not placing the Government entirely in his hands as my predecessor had done; during that period, he acquired considerable popularity with a certain class, and he was ambitious to preserve and extend it. It will I believe be found that radicals and their allies, the Liberals, are as greedy of power as any men. I trust, in completing your arrangements for these Governts., you will still further assimilate them to the Governments in India by excluding the Chief Justice from both Councils. He certainly ought not to be a Member of either the Executive or Legislative, and the new Bill, of which I have only seen the draft, has given the Judges all the power they should possess in matters of legislation. I shall not trespass further on your time than to express my hope that you will excuse the freedom with which I have written; matters, apparently of little moment in the Great World in which you live, are, in a confined Community like this, of immense importance. It is a favorite object with some to shew the similarity between New South Wales and America, and to inculcate Yankie principles; it is therefore important that radical notions and feelings should be put down and rooted out of this land. The Wentworths and others filling higher stations are Americans in Heart; and, if the local Government, unsupported as I have shewn it to be here, be left to contend against them single handed, radicalism will triumph.

1828. 8 Nov.

Cause of opposition from F. Forbes.

Exclusion of judges from councils.

I remain, &c.,
Ra. Darling.

Governor Darling to Sir George Murray.

(Despatch No. 125, per ship Ellen; acknowledged by Sir George Murray, 24th June, 1829.)

Sir, Parramatta, 10th November, 1828. 10 Nov.

I have the honor to acquaint you, in reference to my Despatch No. 72 of the present year, that *Lockaye* alias *Edwards*, having put a period to his existence on his arrival at Norfolk Island, to which place he was sent, the better to prevent his succeeding in his attempts again to abscond from the Colony, it appeared desirable to afford his Widow and Children the

Suicide of A. Lockaye.

1828. 10 Nov.

Passage money paid for widow and family.

necessary means, being totally destitute, of returning to the Cape of Good Hope, the native place of Mrs. Lockaye. I accordingly authorised the issue of £80 for this purpose, and I trust, under the circumstances of the case, which is of a peculiar nature, as will be seen on reference to the correspondence which has taken place respecting Lockaye, that you will be pleased to authorise this sum being charged in the Public Accounts.

I have, &c.,
Ra. Darling.

Sir George Murray to Governor Darling.
(Despatch No. 45, per ship Mellish.)

11 Nov.

Sir, Downing Street, 11th November, 1828.

Memorial from R. Howe.

I have had under my consideration your Dispatches of the 22nd of March last, together with the Memorial therein enclosed from Mr. Howe, who prays that the King may be graciously pleased to confer upon him the Title of Printer to His Majesty for the Colony of New South Wales.

Title of King's printer approved.

My Predecessor has already forwarded to you an Application of the same nature from Mr. Howe, upon which, not having at that time received any report from you, he appears to have refrained from expressing an opinion; I do not however see any objection to a compliance with Mr. Howe's request; but, as I observe in a Separate Letter that you contemplate the necessity which may arise of establishing a Government Gazette, and, as the grant of the Title which is prayed for by Mr. Howe might possibly be construed as giving him a right to the privilege of printing that Gazette, it appears to me that, in complying with Mr. Howe's application, you should distinctly explain to him that the grant of the Title is not to be taken as founding any right of that description, or any claim to salary or allowance.

Proposal to establish a government gazette.

As you have not informed me of the grounds, upon which you think it may be expedient to establish a Government Gazette, it is unnecessary that I should now discuss the expedieney of that measure; but I cannot help stating that my present impression is unfavorable to such a proposition. It has generally, I believe, been found that Gazettes and printing Establishments, when conducted at the Public Expense, have been very unprofitable; and you will, I apprehend, find it much more advantageous to contract with some private Individual, or to employ the existing Newspapers for the printing of those Documents, which it becomes necessary to publish, than to establish a Government Gazette for that purpose.

I have, &c.,
G. Murray.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 46, per ship Lord Melville.)

1828.
11 Nov.

Sir, Downing Street, 11th November, 1828.

Appointment of J. E. Manning.

My Dispatch No. 25 of the 29th of August last acquainted you with the Appointment of Mr. Manning to the Situation of Registrar of the Supreme Court in the room of the late Mr. Mills.

Appointments cancelled.

This Appointment will necessarily prevent the arrangements from taking effect, which were communicated in your Dispatch No. 17 of the 13th of February last, vizt., Mr. John Stephen, Junr., to succeed to the Situation of Registrar, and Mr. Bowen to succeed to that of Commissioner for apportioning the Territory, in the room of Mr. John Stephen.

I have, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 47, per ship Lord Melville.)

Sir, Downing Street, 11th Novr., 1828.

Salary of A. M. Baxter.

I have had the honor to receive your Dispatch No. 16 of the 14th of February last, accompanied by a Letter addressed to you by Mr. Baxter, the Attorney General, on the subject of his Salary.

You will acquaint Mr. Baxter that there does not appear to have been any intention, on the part of His Majesty's Government at the time Mr. Baxter received his Appointment, to assign to him any higher remuneration than that mentioned in Earl Bathurst's Dispatch, No. 37, dated the 20th of May, 1826; and that I cannot, therefore, hold out to him any expectation that his Salary will be now increased.

Stationery for A. M. Baxter.

With regard to the Stationery, with which you have allowed Mr. Baxter to be supplied from the Public Stores, I have only to observe that, unless his Predecessor was provided with this Article, there does not appear to be any occasion for this indulgence being afforded to the present Attorney General.

I have, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 126, per ship Ellen; acknowledged by Sir George Murray, 27th September, 1829.)

Sir, Parramatta, 11th November, 1828.

Having appointed a Board to inquire into the "Expense, Revenue and present arrangements of the Post Office," with a

1828. 11 Nov.

Report by board on post office.

view to determining the necessary Establishment and the amount of Salary which it might be proper to allow the principal Post Master in Sydney, I do myself the honor of transmitting for your information the accompanying Extract of the Report of the said Board, conceiving it unnecessary to burthen this communication with those parts of the Report which relate merely to local details on which no judgment could be formed except immediately on the spot.

Papers transmitted.

I have further the honor to enclose for your information a Copy of the Proclamation, under which the Rates of Postage are at present charged; as also a Copy of the Regulations which have been established for the conduct of the Department.

Salary for G. Panton as principal postmaster.

I beg to acquaint you that I have authorised a Salary of £400 Sterling per annum to the Principal Post Master, as recommended in Paragraph No. 22 of the Report, which, considering the responsibility of the situation and the large sums of money which occasionally pass through the hands of the Post Master, as stated in Paragraph No. 23, will not I conceive be considered more than an adequate remuneration for the proper discharge of the duties of that appointment. I beg to add that a Mr. Panton, who is known in your office from his correspondence on the subject of his services in the Revenue Department and who has for some years past been charged with the duties of Post Master, continues to hold the appointment under the present arrangement.

Establishment of post office.

I have only to add that the Establishment of the Post Office is now as follows, "vizt.":—

Principal Post Master	£400	0	0
Clerk	150	0	0
Letter carrier, 3s. per diem	54	15	0

Commission granted to country postmasters.

The persons, who do the duty of Post Master in the Country Districts, are allowed a commission of 5 per Cent. on the Amount of the Postage collected, but, as the receipts are very trifling, the Board has recommended that the allowance should be encreased to 20 per Cent. for the present, in order to induce trustworthy persons to undertake the duty.

The Board has strongly urged the necessity of an extension of the Post Office Establishment to the more distant parts of the Colony, which I propose carrying into effect when it can be accomplished without inconvenience or much additional Expense.

I have, &c.,

Ra. Darling.

[Enclosnre No. 1.]

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Proceedings of board of inquiry re post office.

EXTRACT of the Proceedings of a Board, appointed under His Excellency the Governor's Minute No. 77 of the 5th July, 1828, for the purpose of enquiring into the Expense, Revenue, and present arrangement of the Post Office; and in order that it may be determined what salary it would be proper to allow the Principal Post Master in Sydney.

THE Board, having taken into consideration the several points above referred to, beg leave to submit the following Report:—

Expense.

1. The annual charge of the Post Establishment, as already authorised, is nearly as follows:— Expenditure.

	£	s.	d.
For the conveyance of the mails—			
From and to Sydney and Parramatta ...	55	0	0
Parramatta and Windsor	78	0	0
Sydney and Liverpool, and Liverpool and Campbell Town	100	0	0
Sydney and Newcastle	45	0	0
Expense of conveyance	£358	0	0
Salary of the Clerk to the Post Office, Sydney	150	0	0
Commission on the Postage collected at 5 p. cent., say	45	0	0
Contingencies, say	100	0	0
Total	£653	0	0

exclusively of the expense of conveying the Mail from and to Penrith and Bathurst by the Mounted Police.

Revenue.

2. The amount of Postage, received at the General Post Office for the last six months, is as follows:— Revenue.

Place.	March.			April.			May.			June.			July.			August.		
Sydney	39	3	3	35	7	1	53	18	3	44	6	6	51	1	6	42	1	8
Parramatta	8	1	8	5	18	4	7	,,	,,	11	1	...	13	...	...	7	not received	...
Windsor	3	1	4	4	7	6	4	2	7	3	15	11	7	9	11	...		...
Liverpool.....	2	10	11	3	4	8	2	12	10	2	18	...	4	8	1	...		...
Campbell Town	1	11	5	1	2	10½	1	1	3	1	...	6	1	16	11	...		...
Penrith.	2	17	7	1	7	4	2	17	2	1	10	9	not received			...		...
Bathurst	4	,,	4	3	11	...	3	14	8	4	4	5	5	3	...	...		...
Newcastle	...	...	...	3	11	1	...	15	6	2	...	...	5	12	1	...		...
	61	6	6	58	9	10½	76	2	3	70	17	1	88	11	6	..	...	...

From the above statement, we would estimate the Produce of the Post Office at about £900 per annum.

Present Arrangements.

3. Post Offices have been established, and Post Masters appointed and are now in the discharge of their Duties, under printed Regulations and Instructions, with which they have been furnished, at Sydney, Parramatta, Windsor, Liverpool, Campbell Town, Penrith, Post offices.

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Bathurst, and Newcastle, and are authorised to receive a Commission of Five per Cent. on the Postage collected by each, as a Revenue ration for their trouble.

Rates of postage.

6. The rates of Postage charged are those established by the Proclamation of the 16th December, 1825.

Letter-carriers proposed.

15. We are of opinion that the engaging of Letter Carriers for the delivery of Letters in the Towns of Sydney, Parramatta, Windsor, Liverpool, and Newcastle, and in their vicinity, would prove a considerable accommodation to the Inhabitants.

Regular delivery in Sydney.

16. As the regular delivery in Sydney, both to Individuals and at the Public Offices, is particularly of much importance we would propose that a trustworthy person should be expressly appointed for that Duty, on the same Salary as that allowed to a Conductor in the Police, or 3s. per Diem.

Rates of postage.

18. On considering the Rates of Postage, which are regulated on much the same scale as in England, we do not see reason to propose any alteration excepting as to Ship Letters, on which we recommend the Postage on double Letters should be double, on Triple Letters, triple that on Single Letters; and, on Letters above the Weight of one ounce, the additional Postage of a single letter, for every one fourth of an ounce above that weight, as regulated in regard to Inland Letters; instead of confining, as at present, the charge on every description of Ship Letter, above a single letter, to a Postage of Six pence.

Necessity for proper post office at Sydney.

20. The expediency of an appropriate Building for the Post Office in Sydney, and for the Residence of the Post Master, has been also brought under our consideration by the Post Master, which, when the Revenue of the Post Office will admit of it, will no doubt be desirable.

Salary of the Post Master.

Salary of the postmaster.

22. We consider the Office of Principal Post Master as one of great trust and confidence; and which, to be filled with advantage, requires in the possessor strict integrity, as well as a considerable share of Intelligence, combined with Habits of attention and punctuallity.

23. Taking into consideration the confidential nature of the Situation, and that the Remittances which pass through his hands, before the Sailing of a Ship for England, are sometimes to the amount of £20,000 and upwards, we are of opinion that the Salary attached to the Office should not be less than Four Hundred Pounds per annum, which we accordingly submit the Post Master should be authorised to receive, without Commission on the Collection or any other allowance.

Commission for deputy postmasters.

24. We take the opportunity of remarking that, looking to the amount of Postage received at the several Post Offices in the country, the present authorised Commission to the Deputy Post Masters of Five per Cent. on the amount collected is obviously a very inadequate compensation for their trouble; and we would, therefore, propose that they should be allowed a Commission of Twenty per Cent. on their Collections for a limited period, say till the end of the Year 1829, when the Rate might be regulated anew; it being understood that this allowance is also to cover the Expense of Candles which the Post Master has requested should be supplied them.

ALEXR. McLEAY. JAMES BUSBY.
WM. LITHGOW.

Sydney, New South Wales, 8th September, 1828.

[Enclosure No. 2.]

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[*A copy of this proclamation, dated 16th December, 1825, will be found on page 91 et seq., volume XII.*]

[Enclosure No. 3.]

INSTRUCTIONS for the guidance of the Post Master and Deputy Post Masters of New South Wales.

Instructions to postmaster and deputy postmasters.

1st. The Post Master in charge of the General Post Office at Sydney, and each of his Deputies, will, before entering upon the execution of his Duties, make an Affidavit to the following effect before a Justice of the Peace for the Territory, Vizt.:—

"I do swear that I will not wittingly, willingly, or knowingly, open, detain, or delay, or cause, procure, permit or suffer to be opened, detained, or delayed, any Letter or Letters, Packet or Packets, which shall come into my hands, power, or custody, by reason of my Employment in or relating to the Post Office; except by the consent of the Person or Persons, whom the said Packet or Packets are or shall be directed, or by an express Warrant in writing under the hand of the Governor, or Acting Governor for the time being, for the purpose, or except in such cases where the Party or Parties, to whom such Letter or Letters, Packet or Packets, shall be directed, and who is or are chargeable with the payment of the Post or Posts thereof, shall refuse or neglect to Pay the same; and except such Letter or Letters, Packet or Packets, as shall be returned for want of true directions, or when the Party or Parties, to whom the same shall be directed, cannot be found; and that I will not any way, embezzle any such Letter or Letters, Packet or Packets, as aforesaid."

Sworn before me at this day of 182 .

2nd. No person whatever, who has not taken the Oath of Office, is to have access to the interior of a Post Office.

3. The Post Master in charge of the General Post Office shall further be held bound, on his appointment, to give satisfactory Security by Bond to His Majesty, himself in £200, and two sureties in £100 each, and every Deputy Post Master, himself in £100 and two sureties in £50 each, for the diligent and faithful discharge of their duties respectively.

4. The Post Master and each of his Deputies will keep posted on such part of his Office, as may be convenient for Public Inspection, a Schedule of the established Rates of Postage, so as to be constantly legible; and as he will be held personally responsible for the postage of all letters and Packets subject thereto, which he may distribute, he will take care that such Rates are duly charged and accounted for.

5. On the arrival of any vessel from a Port beyond the Seas, the Postmaster will forthwith cause all Letters and Packets for the Colony to be brought to the Post Office; and, as an encouragement to the Master to deliver up loose Letters and Packets, not included in the regular Mail from a Post Town in the United Kingdom, the Post Master is to pay him one penny for each of such letters, and two pence for each Packet, taking his receipt in which not only the amount paid, but the number of the Letters and Packets must be specified.

6. Each Post Master is carefully to stamp every Letter, delivered in at his office, with the appropriate Post Office Seal, on the day

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Instructions to postmaster and deputy postmasters.

on which it is put in; and to write legibly thereon the Postage with which it is chargeable, endorsing those letters on which the postage is paid, at the time of being delivered in, with *Red* ink, and unpaid letters with *black* ink, as a distinguishing mark. He will further mark the words "Post Paid," on Letters of the former description, and the words "Free" on letters which are not liable to Postage.

7. All Letters on delivery are to be carefully assorted and put into the Mail Bag, addressed to the Post Office the most conveniently situated for distribution, at the places to which they are severally directed; and each Mail Bag is to be properly sealed by the Post Master, before it is despatched.

8. Newspapers are to be duly forwarded upon paying the regulated postage chargeable thereon, provided they do not contain any note, letter, or writing. Post Masters are to examine newspapers, as often as is practicable; and, on detection of any Enclosures or Writing on the Papers, are to charge them with double or treble Postage on the same principle as for Letters.

9. Post Masters on being applied to respecting overcharged Letters, having satisfied themselves by a cursory view of the contents that the Claim is just, will return the amount overcharged, and request the Parties to leave with them the Covers, if they can be spared; and if not, to sign a receipt as vouchers for the amount which they may thus return.

10. A list of the names and address of all Persons, to whom Letters, which are not called for within Ten days after Receipt, are directed, is to be made out and publicly exhibited at each Post Office for the information of the Parties concerned.

11. All letters, which, after having been thus advertised, have remained one month in charge of any of the Deputy Post Masters without being called for, are to be forwarded to the General Post Office at the end of each month, with a reason assigned on each Letter for their non delivery, and accompanied by a List specifying the amount of Postage, originally charged thereon, in order that he may be allowed credit for the same in his.

12. The Post Master and each of his Deputies will be careful to transmit, with each Mail made up and forwarded by him to any other Post Master, a correct Letter Bill specifying the number of Letters and Packets, and the amount of Postage, agreeably to form No. 1, numbering such Letter Bills progressively in separate series for each Post Office.

The Post Master, to whom such Letter Bill is addressed, is to be considered chargeable with the full amount of the Postage on the unpaid Letters, specified therein, unless he should find such Letter Bill to be incorrect, in which case he is to give notice of the error by the next Mail, not only to the Post Master by whom it may have been signed, but also to the Post Master at Sydney.

All Letter Bills are to be carefully preserved by the Post Master to whom they are addressed, and are to be forwarded as vouchers with his monthly accounts to the Post Master at Sydney at the end of each month.

13. The Post Master and each of his Deputies is carefully to enter in a Book, kept for the purpose, exact Copies of all Letter Bills which they may severally receive or forward, and each of them is further to keep a Book, in which the amount of Postage, received by him daily, is to be regularly entered; as well as a

time Book specifying the day and hour when every Mail is received or despatched. 1828. 11 Nov.

14. Each Mail despatched is further to be accompanied by a Time Bill of a Form, similar to that annexed No. 2, which is to be duly filled up by the respective Post Masters, forwarding or receiving it; and to be returned, or forwarded on to the General Post Office at Sydney. Instructions to postmaster and deputy postmasters.

15. As soon as practicable after the end of every Month, each Deputy Post Master is to furnish the Post Office at Sydney with an attested account of his collections for the preceeding Month, agreeably to the annexed Form No. 3, accompanied by the several Letter Bills received by him, as above referred to; and to remit, or pay into his hands, the full Amount of Postage collected by him in the said Month.

16. The Post Master at Sydney is punctually to pay over to the collector of Internal Revenue, every Saturday, all public monies collected by him in each week, and he is further to make up and forward to The Auditor, by the 4th of each month, an attested statement of all Public Monies collected by him in the preceeding Month, according to the Form No. 4 annexed; transmitting, in support of such statement, the monthly accounts of Postage collected at the several Post Offices, and the several Letter Bills which accompanied the unpaid Letters, on which the Postage was received.

17. It is to be the Duty of the Post Master at Sydney to exercise a general Superintendence over the several Deputy Post Masters; to see that they are punctual and attentive in every part of their Duty, and that the established Regulations, in regard to the Post Office, are fully carried into effect; and he is further to submit, from time to time to the Colonial Secretary for the Governor's consideration, any measures, the adoption of which may appear to him necessary to enable him effectually to carry on the duties entrusted to his management.

18. The Hours of Attendance at the Post Office in Sydney will be as follows, vizt., Summer—from 7 to 9, 11 to 1, and 4 to 6; Winter—8 to 10, 11 to 1, 3 to 5. The same hours will be observed on Post Days at the several Offices in the Country.

[*Copies of the four departmental forms annexed will be found in a volume in series II.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 48, per ship Lord Melville.)

Sir, Downing Street, 12th Novr., 1828. 12 Nov.

I have to signify to you my approbation of the temporary arrangement, reported in your Dispatch No. 25 of the 1st of March last, for the execution of the duties of Solicitor Genl., until the arrival of Mr. Sampson, vizt., by the appointment of Mr. Sydney Stephen to that Situation, Mr. Foster, who held the appointment, having found it impossible to attend to that duty, and at the same time to pay the necessary attention to the duties required of him in his capacity of Commissioner of the Court of Requests. Approval of S. Stephen as acting solicitor-general.

I have, &c.,

G. MURRAY.

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SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 49, per ship Lord Melville.)

Sir, Downing Street, 12th Novr., 1828.

Approval of additional clerk for supreme court.

I have received your Dispatch No. 26 of the 4th of March last, reporting that, on the representation of the Chief Justice, you had authorized the issue of a Salary of £200 a year for an additional Clerk in the Supreme Court, and I beg to acquaint you in answer that, under the circumstances of the case, this charge will be allowed.

I have, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 50, per ship Lord Melville.)

Sir, Downing Street, 12th Novr., 1828.

No necessity for hospital assistants.

Having conveyed to you Instructions for withdrawing the Establishments formed on the Northern Coast of New Holland, it becomes unnecessary to send out two additional Hospital Assistants, as suggested in your Dispatch No. 28 of the 6th of March last, the services of these persons appearing to be only required in the event of the Settlements being continued in that quarter.

Surgeon at Melville island.

The terms, upon which you engaged the Services of Dr. Sherwin for the Settlement at Melville Island, are approved; and His Majesty's Government have likewise acquiesced in your

Salary of commandant at Fort Wellington.

recommendation that the Commandant at Fort Wellington be allowed, from the date of his Appointment, a Salary at the rate of £300 a year, the sum which the Commandant at Melville Island has received.

I have, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 127, per ship Ellen.)

Sir, Parramatta, 12th November, 1828.

Transmission of report re post office.

I do myself the honor to transmit to you, in reference to Mr. Secretary Huskisson's Despatch dated the 29th of December last, marked Circular, the accompanying Copy of a Report of a Board on the subject of the above Despatch, which Board had been previously appointed, as will be seen by my Despatch No. 126, to enquire into the state of the Post Office generally and the efficiency of the arrangements which had been made for the conduct of that Establishment.

I also do myself the honor to enclose, for your information, the accompanying Copies of the Act of Council and Proclamation referred to in the within Report.

I am not aware, Sir, that I can add anything which would be useful, in addition to the information contained in the Enclosures. 1828. 12 Nov.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

REPORT BY BOARD.

Sydney, New South Wales, 8th September, 1828.

1. In pursuance of the Instructions conveyed in his Excellency the Governor's Minute, No. 82 of the 12th July, the Board, appointed to enquire into the present arrangement of the Post Office, have taken into consideration the Copy of the Secretary of State's Circular Despatch, dated 29th December, 1827, signifying his wish to be made acquainted with the Laws and Regulations under which any Revenue may be derived under this Government for the conveyance of Letters from and to the United Kingdom and this Colony. Revenue from post office on overseas letters.

2. The Board beg leave in consequence to report that the Laws and Regulations, under which the Postage on all such Letters is at present charged, are the Act of Council, No. 23 of 22nd November, 1825, and the Proclamation of the 16th December of the same year, according to which a Sea Postage of Four Pence is chargeable for each single Letter, and a Sea Postage of Six Pence for all other Letters of every description. The Board however have recommended that these Rates should be so modified, as that a double and Triple Letter should be charged double and triple the Postage of a single Letter, and that Letters above an ounce in Weight should be charged an additional Postage of Four Pence for every one Quarter of an Ounce above that Weight, according to the Rule applied in charging the Postage on such Letters in England. Regulations in force. Proposed amendments.

3. The Board beg leave further to state that they consider the charge of Postage on Letters, to and from the United Kingdom, to be solely intended to meet the Expenses of receiving, forwarding, and delivering such Letters, and that, beyond this, there exists no desire of derlving a Revenue from this source. Postage for expenses and not revenue.

ALEXANDER MCLEAY. JAMES BUSBY.
WILLIAM LITHGOW.

[Enclosures Nos. 2 and 3.]

[*These were copies of the act of council, 6 Geo. IV, No. 23, and the proclamation dated 16th December, 1825; see page 91 et seq., volume XII.*]

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch marked "Private," per ship Ellen; acknowledged by under secretary Twiss, 19th September, 1829.)

Dear Sir, Parramatta, 12th November, 1828.

I take the liberty of requesting your attention to the subject of the mode of paying the Salary of the Chief Justice, should the new Charter not yet have been prepared. Method for payment of salary of chief justice under charter.

The 5th Section of the present Charter is as follows:—"Our Governor is hereby directed and required to cause such Salary to be paid to the Chief Justice, by four quarterly payments on

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the four most usual days of payment in the year, in Bills of Exchange to be drawn by such Governor on the Lords Commissioners of our Treasury in England, payable to the Order of such Chief Justice, and which Bills shall by our Governor be accordingly delivered to the Chief Justice."

Method for payment of salary of chief justice under charter.

This Charter is understood to have been drawn by Chief Justice Forbes, and may be correct in point of testimonial phraseology, tho' I must think it would have been more consistent with Official Decorum, if the Chief Justice had been required to apply to the Governor for his Salary, rather than the Governor been directed to draw Bills apparently without the necessity of any such Application, and to *deliver* them to the Chief Justice.

Salary paid in specie.

This Course has, however, been altered by a recent Instruction from the Secretary of State, and the Chief Justice now receives his Salary in Specie from the Colonial Treasury, allowing him a premium of 30 per cent., to render the payment equal to a Bill for the amount on the Lords of His Majesty's Treasury.

It will therefore be necessary to provide for this alteration in the New Charter, so that the Chief Justice may be placed on the same footing (with the exception of the premium) as the Civil Servants of the Government.

Payment of salaries of assistant judges.

You will perceive by the accompanying Correspondence, which has passed between Chief Justice Forbes and myself, that he has endeavoured to persuade me that the Assistant Judges are entitled to their Salary in the same manner as the Chief Justice. It is unnecessary to comment on his reasoning or argument. You will observe his Letter No. 1 concludes by requesting as follows, that the Judges "may receive Warrants enclosed to us by your Excellency, upon the Colonial Treasurer for the payment of our Salaries, in conformity with the express Provision of His Majesty's Charter."

I informed him, as you will see by my reply No. 2, that what he required did not appear to me to be in conformity with the "*express provision*" of His Majesty's Charter as he had stated, and that the Salaries of the Assistant Judges would continue to be issued according to the Regulations of the Government. On the receipt of which Letter, he made another Application that the Judges might receive Warrants for the payment of their Salaries "in conformity with the Spirit of the Charter." I have not however complied with his request, as I do not conceive it to be either according to the "express provisions" or "Spirit" of the Charter, nor do I anticipate any of those Evils which he appears to apprehend from a perseverance in the present course.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

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CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 5th October, 1828.

I beg leave in the most respectful manner, to call your Excellency's attention to the following facts:— Payment of salary of chief justice.

Upon my being nominated Chief Justice of this Colony in 1823, the mode of paying my Salary became the subject of an express stipulation between His Majesty's Government and myself; and, in consequence of such stipulation, it is provided by the 5th Section of the Charter as follows:—Our Governor is hereby directed and required to cause such Salary to be paid to the Chief Justice, by four quarterly payments on the four most usual days of payment in the year, in bills of exchange to be drawn by such Governor on the Lords Commissioners of our Treasury in England, payable to the order of such Chief Justice, and which Bills shall, by our Governor, be accordingly delivered to the Chief Justice.

During the first years of my appointment, my Salary was regularly paid by the hands of the Commissary on the day appointed for payment. Since the commencement of the year 1827, I have never received my Salary in the manner stipulated by the Charter, and in no instance on the regular day of payment.

On the 15th of March last, I had the honor to receive a letter from your Excellency, informing me that, as much inconvenience had been experienced from the circumstance of my receiving my Salary in the manner prescribed by the Charter, your Excellency had been authorised by the Secretary of State to pay me a sum, equal to the Treasury Bills, to which I was entitled by the Charter. I could have wished to have been heard before this arrangement was proposed, as I think I could have shewn that my future interests might be materially affected by it. But, in compliance with the wishes of the Secretary of State, I agreed to receive money in lieu of Bills, at the same time requesting that the manner of payment might be conformable to the Charter.

I applied at the Treasury for my Salary yesterday, which was due on the 30th Ultimo, and I was informed that no warrant had been received for paying it. By your Excellency's Orders, it is, I understand, necessary that there should be first an estimate or abstract prepared of the Salaries due to all persons connected with the Judicial establishments, including with the Judges, the Clerks, door keepers, etc. Secondly, a certificate from the Registrar of the Court, that these persons have severally done their duty, and lastly, your Excellency's Warrant for the gross sum due to them all. The Judges of the Supreme Court concur with me in thinking that this is so wide a deviation from the Spirit of the Charter, and does in fact place the Judges in such a state of dependence upon the will of their Clerk, that I am induced to bring the subject before your Excellency, and to request that we may receive Warrants, enclosed to us by your Excellency, upon the Colonial Treasury, for the payment of our Salaries in conformity with the express provision of His Majesty's Charter.

I have, &c.,

FRANCIS FORBES, Ch. Justice.

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[Enclosure No. 2.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, 6th October, 1828.

Payment of salary to chief justice;

I am just now honored with the receipt of your Letter of the 5th inst., respecting the issue of your Salary as Chief Justice, and I regret to find that the Arrangement, which it has been found neeessary to make for the issue of Salaries generally, has subjected you to inconvenience. This however may easily be remedied in future by your Honor's applying as heretofore, whenever you wish to receive your salary, and an Order for Payment shall be immediately transmitted, or the Treasurer shall be directed to issue it when due.

and to assistant judges.

As to the Assistant Judges, the 5th Section of the Charter, quoted in your Letter, having no referenee to their Situations, their Salaries will continue to be issued as at present according to my Instructions and the Regulations of the local Government.

System adopted for payment of salaries.

You will perceive, by the enclosed copy of an Abstract, that the Course of proceeding on which you remark, which has been adopted for the convenience of the Public Service, applies equally to the Governor as to the Chief Justice, the Clerks and Messenger employed in the Office of the former being included in the same Abstract with the Governor, as the "Clerks, Doorkeepers, etc.," employed in the Judicial Establishment, are included in the Abstract with His Honor the Chief Justice. According to the same rule, the Registrar of the Supreme Court has, I understand, been required to sign the Abstraet of the Judicial Establishment, as the Secretary has signed the Abstract of the Governor's Establishment.

It would perhaps be more regular, if your Honor were to sign the Certificate alluded to instead of the Registrar, and I presume you were not applied to only from a desire to avoid interfering with your more important duties. If you concur with me in this opinion, it will rest with your Honor to direct the Registrar to submit the Abstraet in future for your signatnre.

I now do myself the honor to enclose an Order on the Treasurer for your last Quarter's Salary as Chief Justice.

I have, &c.,
RA. DARLING.

[Enclosure No. 3.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Monday Night, 6th October, 1828.

Letter acknowledged.

I take the first moment, afforded me after a long day's sitting in the Supreme Court, to acknowledge your Excellency's letter of this date, and to thank your Excellency for the Warrant upon the Treasury, which it enclosed for the payment of my Salary. I do assure your Exeellency that I should not have pressed the subject upon your notice upon slight grounds.

I have also to express my thanks to your Excellency for your condecension in explaining to me the manner in which your own Salary is paid; and I feel the force of the inference that the Judges ean have no just ground for objecting to a preliminary form, which His Excelleney the Governor, who is so much their Superior, has voluntarily imposed upon himself. But I must beg permission, with the most respeetful deference, to state that the eases of the Governor and the Judges do not appear to me to be parallel. His Excelleney has the controul of the Treasury, and

may command the payment of his own Salary and that of his Establishment at pleasure. But the case of the Judges is very different; their Salaries are so limited, with reference to their rank and civil disabilities, that they are under the necessity of calculating their expenditure with exact economy; and, when the day of paying their Salaries arrives, it generally brings with it demands upon them, which cannot be deferred without placing them in a distressing situation. Accustomed to enforce punctuality with the most penal consequences in other persons, it becomes peculiarly painful to them to be obliged to sue for courtesy at the hands of their Creditors; and, while their Salaries are included in the estimates for the number of persons with whom they are now classed, the payment must continue liable to all the delays, incident to the adjustment of their various claims and the forms of different Offices. 1825. 12 Nov. Payment of salaries of assistant judges.

The situation of Judges is peculiar and isolated; the independence of their Office is essential to its very nature; and the Law has carefully provided for the due preservation of this independence by the tenure of the Office and the regular payment of a fixed Salary. In this, they differ from every other Officer under the Crown. His late Majesty, upon his accession to the throne, was pleased to declare that "he looked upon the independence and uprightness of the Judges as essential to the impartial administration of justice, as one of the best securities of the rights and liberties of his subjects; and as most conducive to the honor of the Crown." This Royal sentiment is not confined to the Soil of England; its legal force and moral excellence are equally strong and applicable in New South Wales. In the Spirit of this Sentiment, His present Majesty was pleased to appoint the Salary of the Chief Justice, and to settle the mode of payment in His most gracious Charter of justice. It is a solemn compact between His Majesty and his people, framed by analogy to the appointment of Judges at home, and intended to secure the independence of the bench. Although the additional Judges may not be within the words of the Charter, because they have been appointed since it was made, I humbly submit that they are within its spirit; and I cannot suppose any reason for defining the amount and regulating the Salary of one judge, which is not equally applicable to all.

I have felt it as my duty to His Majesty, to your Excellency, and to the Judges, with whom I have the honor to be associated, to state the grounds of the request conveyed to your Excellency in my letter of yesterday's date, that the Judges may receive Warrants for payment of their Salaries upon the treasury, in conformity with the Spirit of the Charter; it will remain with your Excellency to give them the consideration which they may desire. Request for warrants for salaries.

I have, &c.,

FRANCIS FORBES, C.J.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 51. per ship Lord Melville.)

Sir, Downing Street, 13th Novr., 1828. 13 Nov.

I have received your Despatch, No. 52, of the 28th of March last, explaining more fully the nature of the duties of the three Assistant Surveyors of Roads and Bridges than your Despatch acknowledged.

1828.
13 Nov.

Approval of superintendence of road parties.

previous Communications contained, in consequence of the wish of His Majesty's Government, as signified to you in Mr. Huskisson's Letter of the 10th of November, 1827, to be furnished with additional information upon that subject; and I have now the satisfaction of acquainting you that the opinion, before entertained, as to the propriety of the arrangements, which you had adopted with the view to a more efficient superintendence of the several Road Parties, has been most fully confirmed by the details which you have now transmitted. I have, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 128, per ship Ellen.)

Sir, Parramatta, 13th November, 1828.

Discontinuance of allowance to Commandant at Parramatta.

I do myself the honor to acquaint you that I have taken the opportunity, afforded by a change of Quarters of the Troops, to discontinue the allowance of Ten Shillings per diem to the Commandant of the Parramatta District.

This Officer cannot however be expected to visit the out Stations as hitherto; but, having some time since withdrawn a similar allowance from the Commandant at Bathurst whose duties are as extensive, I have felt it necessary to place both these Officers on the same footing. I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 52, per ship Lord Melville; acknowledged by Governor Darling, 16th May, 1829.)

14 Nov.

Sir, Downing Street, 14th November, 1828.

Correspondence re precedence of J. Dowling.

I have the honor to acknowledge the receipt of your Dispatch No. 59 of the 31st of March last, transmitting Copies of a Correspondence, which had passed between Mr. Justice Dowling and yourself on the subject of Lord Viscount Goderich's Dispatch, No. 45 dated the 4th of August last, signifying that Mr. Dowling was to take rank in the Supreme Court next after the Chief Justice, a station which, in deference to the personal feeling of Mr. Stephen the other Judge, Mr. Dowling had declined to accept.

Reasons for granting precedence.

Lord Viscount Goderich, in assigning to Mr. Dowling precedence on the Bench over Mr. Stephen, appears to have been influenced by no other motives than the desire of meeting the wishes of Mr. Stephen himself, who was understood to prefer the Situation of Junior Judge, as leaving him less liable to be called upon, in case of the illness or other cause of absence of Mr. Forbes, to perform temporarily the more laborious functions of Chief Judge.

1828.
14 Nov.

As however, from the Correspondence which you have transmitted, it appears that Mr. Stephen is not solicitous to be relieved from that contingency, His Majesty's Government can have no wish, but that he shall retain the Station to which his seniority entitles him. This you will signify to Mr. Stephen without delay.

J. Stephen to take precedence.

I cannot conclude without desiring also that you will inform Mr. Dowling that His Majesty is highly satisfied with the courtesy and forbearance, which he has shewn on this occasion, and by which Mr. Stephen has been spared much of the mortification which he would have experienced, had Mr. Dowling persisted in assuming the superior station on the Bench.

Commendation of action of J. Dowling.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 55, per ship Lord Melville.)

Sir, Downing Street, 14th Novr., 1828.

I have received a Letter addressed by Mr. Archdeacon Scott to my Predecessor, announcing his desire to resign his Office; and I have directed the acceptance of his resignation to be signified to him by my Under Secretary of State in a Letter, which will be enclosed in this Dispatch, and which you will transmit to Mr. Scott without delay. I have, &c.,
G. Murray.

Resignation of Revd. T. H. Scott.

[Enclosure.]

Under Secretary Twiss to Archdeacon Scott.

Sir, Downing Street, 14th November, 1828.

I am directed by the Secretary of State to acknowledge the receipt of your Letter dated the 1st of January last, and to acquaint you that, your resignation having been accepted, His Majesty will direct a Successor to be appointed, with as little delay as possible, to relieve you from your duties.

Acceptance of resignation.

I have, &c.,
H. Twiss.

Governor Darling to Sir George Murray.
(Despatch No. 129, per ship Ellen; acknowledged by Sir George Murray, 28th September, 1829.)

Sir, Parramatta, 14th November, 1828.

I am induced to bring under your immediate attention the total absence of the Works necessary for the protection and security of this Colony. It is in fact without any Defence of a Military Nature.

Want of military defensive works.

1828. 14 Nov.

In submitting the subject for your consideration, I cannot perhaps do better than transmit to you the enclosed copy of a Despatch which I addressed to Earl Bathurst early last year, pointing out the unprotected state of the Town of Sydney in particular, and the consequences which might be apprehended in case of War, should even the smallest Naval force be sent against the Colony.

Unprotected state of Sydney.

Reply to previous report.

My Lord Bathurst was pleased to observe in reply (I regret not having his Lordship's Despatch* immediately at hand to refer to) that he conceived I had brought out Officers with me competent to reporting on the subject. I am not aware to what Officers his Lordship could have alluded, as, though a Company of the Staff Corps came out at the time, I do not consider that any of these Officers are competent to the object in view.

I trust you will not conceive that I am unnecessarily importunate in again bringing this matter forward. I have thought the circumstance of your appointment to the charge of the Colonies, as furnishing the best opportunity for the consideration of such matters, and I have therefore felt it a paramount duty on my part to place it before you. I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was a copy of the despatch, dated 21st February, 1827; see pages 119 and 120, volume XIII.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 53, per ship Lord Melville.)

15 Nov.

Sir, Downing Street, 15th November, 1828.

Despatches *re* settlements in north Australia.

I have the honor to acknowledge the receipt of your Despatches of the 25th of Feby. and the 31st of March last relative to the state of the newly formed Settlements on the North West Coast of New Holland.

Shipment of preserved meats and lime juice.

I have the pleasure to acquaint you that measures have been taken for sending out a quantity of preserved Meats and Lime juice, in compliance with the request contained in your Dispatch of the 25th of February; for, although it has been deemed advisable to direct the withdrawal of the Establishments from the Settlements for which these supplies were immediately intended, it was thought right that a small supply of these Articles should be placed in store, at your disposal to meet such casualties as might occur.

Approval of items of expenditure.

I have further to acquaint you that His Majesty's Government have authorized the two items of Expenditure, adverted to in your Dispatch of the 31st of March, vizt., the sum of £200 on

* Note 130.

account of the hire of the Ship Philip Dundas, and the sum of £413 for the purchase of supplies, which were immediately required for the use of these Settlements. I have, &c.,

1828. 15 Nov.

G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 54, per ship Lord Melville.)

Sir, Downing Street, 15 Novr., 1828.

Having referred, for the consideration of the Lords Commissioners of the Treasury, your Dispatch of the 21st of September last No. 87, containing a requisition for a supply of Stores for the use of the Colonial Hospitals at New South Wales, I have the honor to transmit to you the Copy of a Letter, which has been received in reply, in which their Lordships advert to the quantity of Stationery which is there called for; and I have to request that you will make a full report upon this subject, accompanied with a return of the number and description of persons received into the Civil Hospitals during the last year, and upon an average of the last five years, and with a further return of all other patients, not Inmates of the Public Hospitals, to whom Medical aid, etc., may have been afforded. His Majesty's Government will then have better means than at present of forming an accurate judgment with regard to the propriety of the requisitions for Stores for its use, which may from time to time be sent home, and to the economy, with which the consumption of them may have been regulated. At the same time, I am fully aware, although the circumstance has not been adverted to by the Lords Commissioners of the Treasury in their Communication, that the supplies for the service of the several Public Departments and Institutions in a Colony, where so large a proportion of Prisoners is maintained, cannot be regulated according to the scale of those Colonies, where such supplies are required only for the Troops. I have, &c.,

Requisitions for stores for hospitals.

Report and returns to be submitted.

G. Murray.

[Enclosure.]

Mr. J. Stewart to Under Secretary Twiss.

Sir, Treasury Chambers, 28 October, 1828.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed copies of a letter from the Secretary at War of the 9th Instant, and one from the Director General of the Army Medical Department enclosed therein, relative to the Requisition for Stationery for the use of the Civil Hospitals in N. S. Wales; and their Lordships have directed the Secretary at War to be informed that they wish such articles only to be furnished, as may be considered necessary for the Service, and therefore have desired him to direct the Medical

Requisition for stationery for hospitals.

1828. 15 Nov.

Quantity to be reduced.

Board to reduce the Amount to such quantities as they deem necessary for two years' supply with reference to the consumption of other stations, a Proceeding which My Lords are satisfied can cause no inconvenience, even if on explanation it should appear that some special circumstances at present unknown to the Medical Board cause an unusually large consumption of Stationery at N. S. Wales; and I am to request that you will move Secretary Sir George Murray to direct the principal Medical Officer to communicate in future with the Medical Board as suggested by them.

I am, &c.,
J. Stewart.

[Sub-enclosure No. 1.]

H. Hardinge to Mr. G. R. Dawson.

Sir, War Office, 9 Octr., 1828.

Transmission of report.

Having agreeably to the request, contained in your letter of the 30th June last, referred to the Army Medical Department the requisition therein transmitted for Medicines and Stationery for the use of the Civil Hospitals in N. S. Wales, I have the honor to transmit for the consideration of the Lords Commissioners of His Majesty's Treasnry, Copy of a Report received from the Director General upon the requisition for Stationery, and have to request to be informed whether, under the circumstances therein stated, their Lordships would still wish the whole of the said requisition to be furnished.

I have, &c.,
H. Hardinge.

[Sub-enclosure No. 2.]

Sir James McGregor to the Treasury.

Sir, Army Medical Department, 27 September, 1828.

Report on requisitions for supplies for hospitals.

Referring to your letter of the 9th July, transmitting copies of a letter and its Enclosure from the Treasury with requisitions for Medicines and Stationery for the use of the Civil Hospitals in N. S. Wales, and directing that such supply as may be deemed necessary be prepared and forwarded, we accordingly beg leave to submit for the Secretary of War's Approval that instructions be given to His Majesty's Stationery Office to have the enclosed requisition complied with; at the same time, we have to remark that this demand, although prepared with a view to two years' supply, is a very considerable one. We have referred to the consumption of Stationery for the whole of the Windward and Leeward Islands command for the year 1826, the troops consisting of 6,060 men, with an average of 350 sick.

And also for the Mediterranean, including Malta and the Ionian Islands, consisting of 5,550 Troops, the average sick 210, and the present demand for N. S. Wales in almost every article is larger than for either of the two stations referred to. We therefore take leave to suggest that, when further demands shall be made for Medicines, Purveyor's Stores or Stationery, the principal Medical Officer may be instructed to communicate with us in the same manner as is the practise on other Foreign Stations, forwarding Copies of these demands according to the Forms with which he has been supplied, with the view not only of checking the consumption but the requisitions, and of furnishing such information as his local knowledge may enable him to offer; at present, We are without

sufficient data to judge of the quantities actually necessary; the Tin Slipper Bath and the Iron Bedsteads have been ordered to be supplied from the stores of the Ordnance Department. 1828. 15 Nov.

I have, &c.
J. McGregor.

Under Secretary Twiss to Governor Darling.
(Despatch per ship Lord Melville.)

Sir, Downing Street, 15th Novr., 1828.

I am directed by Secretary Sir George Murray to transmit to you the accompanying Copy of a Letter from Mr. Collins, applying for the confirmation of a Grant of Land consisting of 2,000 Acres, of which occupation had been given to him by Sir Thos. Brisbane in the year 1824; and I am to acquaint you that, in the event of Mr. Collins having, as is stated by him in his Letter, expended Capital upon, and otherwise improved this property to the extent required by the Regulations, Sir George Murray will have no objection to a compliance with Mr. Collins's request. Land grant to T. Collins to be confirmed.

I have, &c.,
H. Twiss.

[Enclosure.]

Mr. T. Collins to Under Secretary Hay.

Sir, 33 Mark Lane, 12th November, 1828.

Upon the eve of commencing my Seventh Voyage to Sydney in New South Wales, I take leave to submit to your perusal the following brief detail of circumstances, with which (as connected with that Colony) my welfare is deeply concerned. Request from T. Collins for confirmation of land grant.

In the year 1824, in consequence of an order issued from the then Right Honble. Secretary for the Colonies, I obtained from Sir Thomas Brisbane an authority to locate Two thousand Acres of reserved Land in New South Wales, and immediately stocked it with Cattle, etc., of various descriptions, *placing* and *leaving* on it an Agent, with a view to it's becoming my residence at a future period, and intending in the interim to make trading voyages to the Colony in a Vessel of four hundred tons burthen, of which I am part Owner and Commander, by which course I hope I have more effectually aided the views of His Majesty's Government than by settling at once on the Land.

In the prosecution of this intention, I have made five successive Voyages, taking with me five valuable Cargoes of Merchandize, several hundred Merino Sheep, Horses, Cattle, etc., and

Two hundred and sixty four (264) free Settlers, and am again about to proceed with 61 Passengers Free Settlers.

During my absence, my Agent or Representative has constantly resided on the Grant. I have expended £1,500 on it's improvement, etc., and my Stock on it has encreased to an extent equal in value to £4,000.

By this statement, which can be substantiated by highly respectable parties, I trust I have established that, although I have not actually resided on the Land, yet that I have effectually accomplished the objects of the regulation under which the location was

1828. 15 Nov. grand; and therefore respectfully request you will submit to the Right Honble. Secretary for the Colonies my urgent prayer that he will be pleased to issue the necessary Instructions for conferring to me in full right the said Grant of Two thousand Acres of Land.

I have, &c.,
THO. COLLINS.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Lord Melville; acknowledged by Governor Darling, 18th May, 1829.)

Sir, Downing Street, 15th November, 1828.

Grievances alleged by G. Harper.

I have the honor to transmit to you the Copy of a Letter, which has been received at this Department from Mr. George Harper, complaining* of certain injuries, stated to have been sustained by him while holding the situation of Commissariat Clerk in the Colony under your Government; I also enclose a Copy of the Communication, which has been addressed to Mr. Harper, in answer, and I am directed by Secretary Sir George Murray to request that you will transmit your report on the allegations contained in this representation.

I have, &c.,
H. TWISS.

[Enclosures.]

[*These voluminous papers will be found in a volume in series II.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 130, per ship Ellen; acknowledged by Sir George Murray, 23rd June, 1829.)

Sir, Parramatta, 15th November, 1828.

Pension proposed for widow of J. Oxley.

I do myself the honor to submit for your consideration the accompanying copy of the Proceedings of a Board appointed to consider the rate of Pension, which it might be proper to grant to the Widow of Mr. Oxley, the late Surveyor General.

The Board has recommended that Mrs. Oxley be allowed £200 per annum, which, considering the nature of her Husband's important Services, his whole life having been devoted to the Public, and his untimely death evidently occasioned by the privations and fatigue, to which he was subjected during his excursions when exploring† the Interior, His Majesty's Government will I have no doubt deem a moderate Pension in this case.

The Board however has not adverted to Mr. Oxley's having left two sons, and been much embarrassed in his pecuniary circumstances at the time of his death. I therefore beg to point out that Mr. Oxley obtained permission, during Sir Thomas

* Note 131. † Note 71.

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15 Nov.

Proposed gift of land to sons of J. Oxley.

Brisbane's administration, to purchase 5,000 Acres of Land at the rate of 5s. per Acre, and I would submit, Sir, with every deferenee to His Majesty's Government, that this Land be made over as a free gift to his children, as an acknowledgment of their Father's Services. The sacrifice would be trifling to the Government, and the Act would be honorable to the Family and might have a salutary effect in this place.

I have, &c.,
RA. DARLING.

[Enclosure.]

REPORT OF BOARD.

Report by board *re* proposed pension for widow of J. Oxley.

Sydney, 25th October, 1828.

May it please your Excellency,

The Board, appointed by your Excellency to consider what allowance it may be proper to make to the Widow of the late Surveyor General, Mr. Oxley, with reference to the period he was employed under the Government of New South Wales, and the Services he rendered to the Public, have the honor to report that on enquiry it appears that Mr. Oxley was originally employed in this Colony very early in Life, being appointed whilst serving in the Navy to the Command of the Tender to Governor Bligh's Ship the Porpoise, of which he was subsequently first Lieutenant; and, during this Service, his marine surveys were carried on.

On his return to England, he succeeded in obtaining the appointment of Surveyor General, dated 1st January, 1812, and, whilst holding this Office besides executing the important Duties more immediately connected with it, he performed two most fatiguing and enterprising Journeys into the Interior of the Country for the purpose of discovery. From these, much valuable information has been derived, and no one yet has penetrated further. The Board are led to believe that much of the Expense of the Equipment for these Journeys was defrayed out of Mr. Oxley's private Funds, and it is brought under the notice of the Board that, in order to meet those Expenses, and relieve the embarrassment which his affairs got into by wilful mismanagement on the part of his Agents during his Absence, he was obliged on his return from his last Journey to dispose of 2,000 Acres of valuable land. The Board are therefore led to the opinion that the several Grants of Land, made to him for his special Services, vizt., 1,000 Acres for his Marine Surveys, 2,000 Acres for his first Expedition, 1,000 Acres for his second do. did little more than compensate him for the loss and Expenses incurred, whilst, looking at his impaired constitution and entire loss of Health, resulting from the privations and sufferings he endured, we cannot but consider the Widow's claims to a liberal pecuniary assistence as unaffected by the extent of those Grants.

Mr. Oxley served the Crown somewhat more than 26 years, that is 10 years in the Navy, and 16 as Surveyor General of these Colonies; as a Settler, he never received more than 1,400 acres of Land.

It is represented that Including Fees, etc., on an average of the last five Years, Mr. Oxley's Emoluments from his Office were about £1,400 a year.

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15 Nov.

Report by board *re* proposed pension for widow of J. Oxley.

The Board in endeavouring to form their opinion as to the extent of Pension, which should under the above circumstances be given to the Widow, have had under their consideration the Amount of the different Pensions granted to Individuals for Services in this Colony; these do not however furnish the means of determining upon any Fixed principle a scale for regulating the amount of Pension, which would in ordinary cases be considered reasonable; but the mean of the whole of the Pensions granted, appearing to the Board to be about one Seventh of the Sum of the Salaries paid to the Officers, whose Widows are Pensioned, and considering that the amount under this calculation, vizt., £200 a year, would be a moderate allowance to Mrs. Oxley, we are induced to suggest that not less than this sum should be granted in her case.

It is not within the knowledge of the Board whether or not Mrs. Oxley be entitled to a Pension, as the Widow of a Lieutenant of the Navy. If not, her case will claim perhaps a further consideration to the extent of such Pension beyond £200 a year.

ALEXANDER MCLEAY. WILLIAM DUMARESQ.
WILLIAM LITHGOW.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 131, per ship Ellen.)

17 Nov.

Sir, Parramatta, 17th November, 1828.

Transmission of proclamation *re* duties.

I do myself the honor to transmit for your information the accompanying Copy of a Proclamation, which has been issued, altering the rates of Duty on Spirits and other Articles under the authority granted to the Governor of this Colony by sundry Acts of Parliament therein recited.

I beg further to state that the above measure was duly submitted to the consideration of the Executive Council and was unanimously recommended for adoption, the whole of the members being present.

As a Copy of the Minutes of Council for the present Half Year will be forwarded by the next opportunity, I do not transmit on this occasion a Copy of the Minute in this particular case, conceiving it can hardly be necessary to refer to it.

Alterations in duties on spirits.

The following statement, shewing the rates of the late and present duties, will put you, Sir, immediately in possession of the alterations which have taken place, vizt.:—

	Former duty per Gallon.	Present duty per Gallon.
	s. d.	s. d.
On Colonial Spirits distilled from Grain raised in the Colony	2 6	2 6
On Spirits, the Produce of the United Kingdom or of His Majesty's Plantations, imported directly from the United Kingdom	6 0	6 6
On all other Spirits	7 6	8 6

I beg to observe that it became necessary, from the large quantities of imported Spirits and Tobacco in Bond, to render

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the new scale of Duties applicable to these supplies, which are considered to be nearly equal to two years' consumption, or the measure, as far as regards the Revenue, would have been altogether nugatory.

Duty to be levied on spirits in bond.

It is my intention, whenever the state of the Revenue may require it, to propose to the Council an addition to the ad-valorum Duties on Goods of Foreign produce or Manufactures, as the least objectionable mode of encreasing it. This will best be ascertained when the accounts of the present year have been made up; and no time shall be lost in completing them when the year has expired.

Proposed general increase in tariff.

I have, &c.,

Ra. Darling.

[Enclosure.]

Proclamation.

By His Excellency Lieutenant General Ralph Darling, Commanding His Majesty's Forces, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, etc., etc., etc.

Proclamation of new scale of duties.

Whereas, in Exercise of the Power and Authority vested in the Governor of the Colony of New South Wales by an Act of Parliament, passed in the 59 year of the Reign of His late Majesty King George the Third, and by three other Acts of Parliament, passed in the Third, Fourth, and Seventh Years of the Reign of His present Majesty respectively, to impose and levy certain Rates and Duties upon Spirits made in the Colony, and upon Spirits, Tobacco, and all Foreign Goods, Wares, and Merchandise, imported into the said Colony, a Proclamation was issued by the Governor, on the 25th day of October, 1825, ordering and directing the levying of the several and respective Rates and Duties, which are therein specified, and which have continued to be levied to the present Time accordingly. And whereas it is judged expedient to make certain Alterations in the said Rates and Duties; Now, Therefore, I, The Governor, in Pursuance and in Exercise of the Authority vested in me as aforesaid, do, by this my Proclamation, impose, and order to be levied, the following Rates and Duties, from and after the Date of this my Proclamation; that is to say—

1. On Spirits, made or distilled from Grain, the Produce of the said Colony of New South Wales or its Dependencies, a Duty of Two Shillings and Sixpence Sterling for each and every Gallon, Wine Measure, of such Spirits, not exceeding the Strength of Hydrometer Proof, and in the same proportion for Spirits of greater Strength, to be determined and calculated in the usual Manner.

2. On Spirits, the Produce and Manufacture of the United Kingdom, or of His Majesty's Plantations in the West Indies, imported directly from the United Kingdom into the said Colony or its Dependencies, a Duty of Six Shillings and Sixpence Sterling for each and every Gallon, Wine Measure, of such Spirits not exceeding the Strength of Hydrometer Proof, and in the same Proportion for Spirits of greater Strength.

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17 Nov.

Proclamation of new scale of duties.

3. On all other Spirits, whether made within or imported into the said Colony or its Dependencies, a Duty of Eight Shillings and Sixpence Sterling for each and every Gallon, Wine Measure, of such Spirits, not exceeding the Strength of Hydrometer Proof, and in the same Proportion for Spirits of greater Strength.

4. On all unmanufactured Tobacco, imported in the said Colony or its Dependencies, a Duty of One Shilling and Sixpence Sterling for each and every Pound Weight, avoirdupois, of such Tobacco, and on all Manufactured Tobacco and Snuff, so imported, a Duty of Two Shillings Sterling, for each and every Pound Weight, avoirdupois, of such Tobacco and Snuff.

5. And on all other Goods, Wares, and Merchandize, not being the Growth, Produce or Manufacture of the United Kingdom, imported into the said Colony or its Dependencies, either from the United Kingdom or elsewhere, the same Rate of Duty as is now levied in the said Colony, that is to say, Five Pounds Sterling upon every Hundred Pounds in Value of the same, and so in proportion for every greater or less Value, such Value to be ascertained in the manner prescribed in the beforementioned Act of Parliament, passed in the Third Year of His Majesty's Reign, intituled "An Act to continue until the First Day of January, One Thousand, Eight Hundred and twenty-four, An Act passed in the Fifty ninth Year of His late Majesty, relating to imposing and levying Duties in New South Wales, to authorize the imposing and levying other Duties on Goods imported into the said Colony, and to suspend for Ten Years the payment of Duty on the importation of certain Goods the produce of New South Wales."

And I do hereby further direct and order that the aforesaid several Rates of Duties on imported Spirits and Tobacco shall take effect and be levied from and after the Day of the Date of this my Proclamation, upon all Spirits and Tobacco already imported, or brought into the said Colony, whether deposited in the Custom House, Warehouses, or otherwise, upon which no Duty of importation has hitherto been eventually paid.

Given under my Hand and Seal, at Government House, Sydney, this Sixteenth Day of October, in the Year of Our Lord, One thousand, eight hundred and twenty-eight.

RALPH DARLING.

By His Excellency's Command,
ALEXANDER MCLEAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 132, per ship Ellen.)

18 Nov.

Remittance in payment for astronomical instruments.

Sir, Parramatta, 18th November, 1828.

I have the honor to acquaint you, in reference to Mr. Secretary Huskisson's Despatch No. 20, dated the 26th of April last, that a remittance was made to Mr. Barnard the Colonial Agent some time since to enable him to pay Sir Thos. Brisbane for the Astronomical Instruments which he had left in the Observatory on his Departure from the Colony.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY. 1828. 19 Nov.
(Despatch No. 133. per ship Ellen.)

Sir, Parramatta, 19th November, 1828.

I have the honor to acquaint you, in reference to my Despatch No. 119 of last year, that Mr. Cunningham has recently returned from his second Expedition,* which, I informed Mr. Stanley in my letter of the 25th of May last, he was about to undertake with a view of connecting the point where his former Expedition terminated with the River Brisbane, which flows into Moreton Bay. I am happy to be enabled to state that Mr. Cunningham's exertions have been attended with complete success, and that that part of the Country which had hitherto been unexplored will shortly be laid down on the Map, as I have every reason to believe, in a very scientific and satisfactory manner. Return of A. Cunningham from exploration. Success of expedition.

I regret it is not in my power at this moment to forward Mr. Cunningham's Report as it is not yet completed, the only account which I have obtained of his proceedings being verbal; but no time shall be lost in transmitting it.

2d. I avail myself, Sir, of this opportunity of informing you, in reference to my Letter to Mr. Stanley above alluded to, that I have just despatched Captain Sturt of the 39th Regiment on an Expedition, the object of which is to ascertain the Course and fate of the River Macquarie. He is to commence at the Marsh where the Expedition† under the late Mr. Oxley terminated in the year 1818, which was in latitude 29° 30′ South and longitude 147° 10′ East. It has appeared to me, as Mr. Oxley was unable to proceed in consequence of the extensive Swamp or Marsh, in which the Macquarie appeared to terminate, and as the state of the Weather at that time, the rains having been incessant, may have occasioned the Country being flooded, that the present season, owing to the unexampled Drought which has been experienced, scarcely any rain having fallen for the last two years, presents an opportunity peculiarly favorable for following up the object of Mr. Oxley's Expedition. Departure of C. Sturt on expedition. Proposed exploration of Macquarie river.

Should the Waters, which prevented Mr. Oxley's progress, not impede Captain Sturt's, he will proceed, as far as circumstances will permit, in pursuit of the object pointed out; and I have taken care to have supplies in readiness to be placed in Depôt, that his Stock may be recruited without the necessity of his returning to Wellington Valley, our extreme Settlement on the Macquarie.

Should he find that the Waters which opposed Mr. Oxley still exist, they must at all events from their Nature be considerably diminished in consequence of the long Drought; and, in this case, I have instructed Captain Sturt to skirt them with a view

* Note 132. † Note 133.

1828. 19 Nov. of ascertaining their extent and the description of the surrounding Country, so as to enable His Majesty's Government to judge of the means which the Interior affords for more extensive Settlements.

Equipment of expedition. Captain Sturt has been provided with a light Boat constructed for the occasion, and I have furnished the Expedition in a manner, though at a very trifling Expense, which will be likely to prevent its failure from want of adequate means.

Capacity of C. Sturt. Captain Sturt, from his scientific knowledge, appears to be fully competent to the undertaking; and, being ardently devoted to it, there is every chance of his success.

Though now some time in the Country, he has had however but little opportunity of being practically acquainted with its character. In order therefore to afford him the assistance of an experienced Traveller, I have attached Mr. Hume to the Expedition, who made an Excursion* to the Southward in the Neighbourhood of Western Port during Sir Thos. Brisbane's Administration. He is an enterprising Man, whose knowledge of the Country generally and experience in conducting an Establishment of the nature, now employed, cannot fail to promote the success of the Expedition.

H. Hume attached to expedition.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Ellen; acknowledged by under secretary Twiss, 26th September, 1829.)

20 Nov. Sir, Parramatta, 20th November, 1828.

Transmission of letter from W. Wemyss. I do myself the honor to forward to you, at the desire of Mr. Wemyss, Deputy Commissary General, who has lately proceeded to England, the accompanying Letter from himself with a "Narrative" written by Doctor Lang, a Minister of the Scots Church.

Disinclination of R. Darling to participate in disputes. Mr. Wemyss seems to consider that this matter has not been taken up by the local Government in the manner it ought to have been. My object was to avoid interfering in it, the circumstances adverted to having occurred long previous to my Arrival, and seeing that the Business of the Government must be totally suspended, if I am to embark as a volunteer in the disputes and controversies of private Individuals, it being already materially impeded by the Correspondence which takes place in consequence of the Spirit of opposition of its immediate Servants.

I need, Sir, only refer you in proof of this, to my recent communications respecting some of the clergy of the established Church. The present is certainly of a different nature, as relating to Individuals in their private Capacity; but, so far from

* Note 134.

feeling any desire to countenance Dr. Laing's conduct, as Mr. Wemyss seems to suppose by my not taking any public notice of it, it is in my opinion impossible not to see that the "Narrative" is written in a spirit very unbecoming the character of a Minister of Religion, and I must say, in the circumstances of the case, appears to me to evince a disposition on the part of Dr. Laing, not very creditable to him even as a Man. 1828. 20 Nov. Criticism of conduct of Revd. J. D. Lang.

If I am not greatly misinformed, Doctor Laing arrived here originally with some Relations, possessing only the slenderest means of support. Being in this necessitous State, he and his friends were, I understand, maintained by Mr. Wemyss for many months; and in return Doctor Lang, who now receives £300 a year from the Government, has thought fit to publish to the World, even according to his Account, the Conversations and occurrences of Mr. Wemyss's Domestic Life.

It is no proof of any undue partiality for Mr. Wemyss to state that he is a Man of most respectable private Character and remarkable for the correctness of his Conduct. Character of W. Wemyss.

The enclosed Copies of Letters, addressed by my Private Secretary to Mr. Wemyss, will shew that I was desirous of removing from his mind any idea, he might have entertained, that I was disposed to countenance Doctor Lang's Conduct.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Dep. Commissary-Genl. Wemyss to Sir George Murray.

Sir, Sydney, 8th November, 1828.

In submitting the accompaniny Pamphlet to your consideration and to that of His Majesty's Government, I am influenced less by private or personal feelings than a sense of duty I owe to the public. Criticism of pamphlet by Revd. J. D. Lang.

To the calumnies on my conduct in private life, detailed in that production, are added most illiberal and unjust attacks on my official character and conduct; and, notwithstanding a strong feeling of disgust has been excited in the public mind, yet it is with regret I have to observe that it has not been seconded by a similar exhibition on the part of the local Government.

It is on this ground I have to complain as due to my Rank in the Public Service and to my Successor in Office, and to solicit your judgment upon this instance of illiberality and injustice at the hands of a Minister of Religion salaried and accredited by Government.

The justice of the principle, upon which I venture to make this representation is founded, will I trust sufficiently excuse me

1828. 20 Nov. for trespassing on your time and attention. I make the appeal on public grounds only and have no other apology to make.

I have, &c.,
W. Wemyss, D.C.G.

[Sub-enclosure.]

[This was a copy of the printed pamphlet, "Narrative of the Settlement of the Scots Church," by John D. Lang, Sydney, 1828.]*

[Enclosure No. 2.]

Lieut. T. de la Condamine to Dep. Commissary-Genl. Wemyss.

Sir, Government House, 27th October, 1828.

Ignorance of R. Darling *re* pamphlet.

Having laid before the Governor your letter of the 20th inst., His Excellency desires me to acquaint you in reply, that the Pamphlet entitled a "Narrative of the Scots Church," to which you allude, was sent to him by the Author; but, it appearing to His Excellency that the subject related to matters with which he had no concern, having occurred previously to his arrival in the Colony, and being sufficiently occupied with what immediately relates to his own administration, His Excellency has not yet perused this Book and had never before heard of the part to which you have alluded in your Letter. His Excellency

Adverse opinion *re* Revd. J. D. Lang.

desires me to observe that, although he has rather avoided entering into the subject treated by Dr. Lang, he has no hesitation in saying that what he has heard of this Publication (and which happened subsequently to His Excellency's visit to the Scots Church) has not impressed him with a favorable opinion of the spirit which dictated it.

I have, &c.,
T. de la Condamine,
Private Secretary.

[Enclosure No. 3.]

Lieut. T. de la Condamine to Dep. Commissary-Genl. Wemyss.

Sir, Government House, 3rd November, 1828.

Expression imputed to R. Darling.

I have had the honor to lay before the Governor your Letter of the 29 Ultimo, and in reply I am directed to inform you that His Excellency has no recollection of having used the expression, imputed to him by Doctor Lang in his Narrative of the Scots Church. His Excellency remembers having been waited upon by Mrs. Lang, who entered into a desultory conversation on subjects with which His Excellency was before totally unacquainted, and it is not improbable that His Excellency may have replied in the words, which are imputed to him, to the proposition which is stated to have been made viewing it in the light of an Abstract question, but considering at the same time that you were the proper Judge, whether Mr. G. Lang's

* Note 135.

request should be complied with and certainly not meaning to impute to your non-compliance "an unfeeling and unchristian conduct." 1828. 20 Nov.

I have, &c.,
T. DE LA CONDAMINE,
Private Secretary.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Ellen; acknowledged by Sir George Murray, 10th October, 1829.)

Sir, Parramatta, 24th November, 1828. 24 Nov.

I have the honor to acknowledge the receipt of your Despatch No. 9, dated the 22nd June last, enclosing the Copy of two letters from the late Mr. Mills, Registrar of the Supreme Court, applying for an additional Grant of 5,000 Acres of Land, and observing that "late occurrences, however, render it doubtful whether it would be proper to continue the practice of granting Crown Lands to the Civil Servants, so long as they hold Situations under the Government; at least, much caution would seem to be requisite in complying with such Applications"; and desiring, with a view of relciving me from the unpleasant duty of deciding upon Applications of this nature from the Civil Servants, that I should in future refer every such Application to His Majesty's Government. Application by G. G. Mills for land grant. Instructions for reference of applications from civil servants to England.

As I am not aware of the "late occurrences," alluded to in the Despatch you have done me the honor to address to me, as having induced His Majesty's Government to withdraw the power, which was granted to me on my receiving my Appointment, I am unable to furnish such information, as it would have been my duty and I should have been happy to have had an opportunity to have afforded on the immediate points, which may have led to this determination on the part of His Majesty's Government.

Under this circumstance, it only remains for me, Sir, to transmit for your information a List of the Grants of Land made to the Civil Servants since I assumed the Administration of this Government; and, after the most careful revision of the several cases, I assure you, Sir, I am totally unable to discover the Grounds on which it has been considered necessary to withdraw from me a power, which I had endeavoured to exercise with discretion, and which I still trust His Majesty's Government will find, on an examination into the facts, I have in no respect abused. Return of land grants to civil servants. Withdrawal of power from governor.

Simultaneously with the receipt of your Despatch, an Article appeared in the "Sydney Monitor,"* charging me with having bestowed large Grants of Land on my Relations and Connections. Charge made in *Monitor*.

* Note 136.

1828. 24 Nov.

I am, however, willing to hope that this coincidence, though singular, is no proof that the faction, to which I have so long been left exposed, have at length succeeded in making an impression on His Majesty's Government unfavorable to my public Character.

Expectation of right of reply to allegations.

That the Arts and Machinations of the Person, who directs this Party, would be unabated, I have all along been satisfied; but the expectation of being afforded an opportunity of replying to any Calumnies, which might be transmitted Home against me, has hitherto rendered me regardless of the Attempts of my Enemies, however insidiously directed, to injure me in the Opinion of His Majesty's Government.

Denial of charge of giving land to relations.

I must now, Sir, entreat your particular attention to the enclosed List. You will find, Sir, that I have not given a Grant of Land to any Person in Office, connected with me; though to shew I might have done so without Blame, it is only necessary to instance that Captain Dumaresq, who was at the head of a Department for twelve months, when on Half-Pay, and has held the same Office ever since my Arrival, has never yet received an Acre; and I will add that, from the moment of my taking Charge of this Government to the present time, now a period of three Years within a few days, *I have not granted, sold or even rented, or promised one single Acre of Land to any Individual connected with me,* or to any one who came out under my patronage.*

Prohibition of land grants to civil servants.

I am aware that, previous to my appointment, it was not permitted, as stated in your Despatch, to make Grants of Land to the Civil Servants of the Government. I found, nevertheless,

Land granted to F. Forbes by Sir T. Brisbane;

that almost everyone had received Land, Chief Justice Forbes, for instance, no less than *ten thousand Acres*; and I admit, if the censure passed on me applies to this case, that I have merited reproof by allowing myself to be betrayed into a belief that this 10,000 Acres, given to him by my Predecessor, was intended as an equivalent† for some Land, which his Mother was to transfer to Government at Bermuda.

and by R. Darling.

Under this impression, being then but little acquainted with Mr. Forbes, I authorised his receiving a Grant of *2,560* Acres, the same as the other principal Officers of the Government; and I further granted him 120 Acres on the Nepean for the purpose of building a Country Residence. I am now satisfied that this liberality to the Chief Justice was as unmerited as it has been ill requited. But it furnishes the only instance that I am aware of, that Lands have been improperly or inconsistently granted to

* *Note in original.*—Colonel Dumaresq is the only exception, who received a small Extension of his Grant, as pointed out in the Enclosed.

† Note 137.

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the Civil Servants of the Government. And I beg to refer you to my Dispateh, dated the 15th April, 1827, marked "Separate," that it may be aseertained whether Government has received an Equivalent for the 10,000 Acres reserved for Mr. Forbes, and of which he has been long sinee in possession; and if so, if this Reserve is to be confirmed to him by Grant.

Lands granted to civil servants.

With respect to the other Civil Servants of the Government, most of them were in possession of Land either as "Grants" or "Reserves" at the time of my Arrival, as will be seen by the accompanying Return. I encreased some of them as also appears by the same Return, where I considered the means of the Individual enabled them to improve the Grants, conformably to the Regulations on this head.

In other Cases, I authorised such of the Civil Servants, as were appointed after my arrival to the higher Situations, to receive Grants of Land according to their means and Rank, considering that their Salaries and other Resources would enable them to expend as much annually on their Land as common Settlers, whose Capital gives them a Claim to four square Miles.

Necessity for defence by R. Darling.

I hope, Sir, I shall stand excused for endeavouring to defend myself from an Attaek, which it is impossible for me not to see has been insidiously and indirectly made on my public Conduct. Being aware of the Arts and of the influenee of the Chief Opponent of this Government over some Individuals here, I have for the last two Years strenuously endeavoured to impress on His Majesty's Government, how necessary it was that the hands of this Government should be strengthened. I will leave you then to judge, Sir, what the effect on this party must be on finding, as they eannot fail to do, on the Orders now received being made known, that the Governor has been deprived of the power of granting Lands to the Civil Servants. I am sure, Sir, you will see that it must enerease the influenee of the Opposition Leader here in a much greater proportion even than it will weaken the Hands of the Government. I have already ventured to observe that his proceedings being unchecked for so long a period, has given a Countenanee to others who, unprotected by his influence, would never have presumed to shew themselves.

Effect of new orders on party in opposition to governor.

If I have expressed myself in any manner inconsistent with Official etiquette, the cause, I trust, will plead my Exeuse; and I must throw myself on the indulgence of His Majesty's Government. I have had but one object, the faithful discharge of my public duty. That I have not greatly failed, the subject of this Communication will I trust be considered as furnishing some proof.

I have, &c.,

Ra. Darling.

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Return of land grants to civil servants.

[Enclosure.]

RETURN of the Civil Servants of the Government, who have received Grants or Reserves of Land during the administrations of Sir Thomas Brisbane and Lieutenant General Darling, 23rd November, 1828.

Department.	Name.	Office.	By Sir Thomas Brisbane.	By Lieut.-General Darling.	Total.	Remarks.
Ex. Council	W. Stewart	Lieut.-Governor	.....	3,200	3,200	3,000 Acres by order of the Secretary of State, and 200 being from Local Situation useless to any other person.
Do	F. Forbes	Chief Justice	10,000	2,560	12,560	
Do	T. H. Scott	Archdeacon	.....	2,560	2,560	Sanctioned by the Secretary of State.
Do	A. McLeay	Colonial Secre'y	.....	2,614	2,614	
Do	H. Dumaresq	Clerk	.....	180	180	Being from local situation with reference to the Grant of 2,000 Acres he had rec'd from Sir T. Brisbane when on Half Pay useless to any other person.
Legislative Council	H. G. Douglass	Clerk	3,100	.....	3,100	
Supreme Court	J. Wylde	Judge Advocate	2,000	.....	2,000	
Do	J. Stephen	Assistant Judge	2,000	560	2,560	
Do	J. Dowling	do	.....	2,560	2,560	
Do	S. Bannister	Attorney General	.....	2,560	2,560	
Do	A. M. Baxter	do	.....	2,560	2,560	
Do	J. Mackaness	Sheriff	2,000	.....	2,000	
Do	G. G. Mills	Registrar	2,000	560	2,560	
Do	J. Stephen	do	.....	2,560	2,560	
Do	W. Carter	Master	2,000	.....	2,000	
Treasury	W. Balcombe	Treasurer	2,000	560	2,560	
Auditor	W. Lithgow	Auditor	2,000	.....	2,000	
Surveyor General	T. L. Mitchell	Surveyor General	.....	2,560	2,560	
Do	P. Cavenagh	Assistant Surveyor	2,000	.....	2,000	
Do	H. Dangar	do	1,300	.....	1,300	The other Grants by Sir Thomas Brisbane have been cancelled and approved by the Secretary of State.

[Enclosure]—*continued.*

RETURN of the Civil Servants of the Government, who have received Grants or Reserves of Land—*contd.*

Department.	Name.	Office.	By Sir Thomas Brisbane.	By Lieut.-General Darling.	Total.	Remarks.
Surveyor General	H. Finch	Assistant Surveyor	1,000	.....	1,000	
Do	W. Harper	do	2 000	.....	2,000	
Do	R. Hoddle	do	1,000	.....	1,000	
Do	J. Rodd	do	1,500	.....	1,500	
Medical	J. Bowman	Prin'l Surgeon	2,000	560	2,560	
Do	G. Brooks	Assistant do	2,000	.....	2,000	
Do	P. Hill	do	2,000	560	2,560	
Do	J. Mitchell	do	2,000	.....	2,000	
Do	M. Anderson	do	2,000	.....	2,000	
Do	J. McIntyre	do	1,000	.....	1,000	
Do	F. Moran	do	1,000	.....	1,000	
Do	W. Richardson	do	.....	1,280	1,280	
Do	A. Gibson	do	.....	2,560	2,560	Having married in the Colony a lady possessing a large quantity of stock.
Police	F. N. Rossi	Principal Sup'dt	2,000	560	2,560	
Do	Dr. McLeod	Superinten't	5,000	.....	5,000	
Do	J. Fennell	do	2,000	.....	2,000	
Do	F. Allman	do	2,000	560	2,560	
Do	E. Lockyer	do	.....	2,560	2,560	
Do	S. Wright	do	.....	2,560	2,560	
Do	T. Evernden	do	.....	2,560	2,560	
Do	W. Steel	P'l Jailer, Sydney	2,000	.....	2,000	
Engineer	J. Ovens	Engineer	2,000	.....	2,000	
Do	J. Thorpe	Assistant do	1,000	.....	1,000	
Do	W. Aird	do	1,200	80	1,280	
Do	W. Buchanan	do	1,000	.....	1,000	
Marine	J. Nicholson	Harbour Master	800	.....	800	
Convict	F. A. Hely	Principal Supt.	2,300	260	2,560	

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Return of land grants to civil servants.

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Sir George Murray to Governor Darling.

(Despatch No. 56, per ship Waterloo.)

Sir, Downing Street, 26 November, 1828.

Despatch acknowledged.

I have received your Dispatch of the 26th September, 1827, reporting the result of your Tour of Inspection to the Penal Settlements at Port Macquarie and Moreton Bay, and requesting authority to remove from the former place, as soon as circumstances shall permit, the restraint, which characterizes it as a Penal Settlement.

Approval of abolition of penal settlement at Port Macquarie;

Sir Thomas Brisbane, in his Dispatch of the 21st of May, 1825, appears to have suggested a similar measure to that which you have now proposed; and His Majesty's Government in 1826 appear, also, to have contemplated the throwing open Port Macquarie to general Colonization. Under these circumstances, and in consequence of the additional grounds which are now stated by you, I am of opinion that advantages might result from carrying this measure into effect. You will therefore consider yourself at liberty to take the necessary measures for that purpose, whenever you shall deem that the object can be best accomplished.

and of formation of establishment at Dunwich.

The Measures appear also desirable, which you have proposed with a view to facilitate the communication with the Settlement at Moreton Bay by forming a small Establishment at Dunwich in the Isle of Stradbroke, for the purpose of receiving in the first instance the supplies destined for that Settlement. But, in the formation of the proposed establishment, care must be taken that it be not placed upon a larger or more expensive scale than is absolutely required for the due protection and preservation of the Supplies which may be there deposited.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 57, per ship Waterloo.)

Sir, Downing Street, 26 November, 1828.

I have had the honor to receive your Dispatch No. 73 of the 13th of May, bringing under the consideration of His Majesty's Government the inconvenience, which continues to be experienced from the present state of the Survey of the Colony, and the inadequacy of the means of the Surveyor General's Department to the duties it has to perform.

Inadequacy of survey department.

I am concerned to find from Major Mitchell's report that, of nineteen assistant Surveyors belonging to the Department, only

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nine appear to be effective. These Officers must be informed that, unless they shall within a reasonable time, to be prescribed by Major Mitchell, perfect themselves sufficiently in their business to be reported competent, I shall feel it necessary with whatever reluctance to send out proper persons to supersede them. In the mean time, measures will be taken to supply the present deficiency of numbers in that Department by a few additional Appointments both of Surveyors and of Draftsmen.

Inefficiency of surveyors.

Additional appointments to be made.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 58, per ship Waterloo.)

Sir, Downing Street, 26 November, 1828.

I have received your Dispatches of the dates and numbers mentioned in the margin,* the first reporting certain Arrangements, which you had found it necessary to make with respect to the Establishment of the Principal Superintendent of Convicts, who is charged with the general Superintendence of the several convict Establishments, the second relating to a scale of Salaries and gratuities, which have been established for the remuneration of the persons officially employed in charge of the Prisoners at Hyde Park Barracks. Concurring in the propriety of those arrangements, and in the opinion expressed by you that the Salaries and gratuities, which have been fixed for the Establishment at Hyde Park Barracks, are not more than adequate to ensure a due and faithful discharge of the duties appertaining to the respective Individuals of whom that establishment is composed, I beg to convey to you His Majesty's approbation of those measures.

Approval of establishment for superintendent of convicts and Hyde park barracks.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 59, per ship Waterloo.)

Sir, Downing Street, 26 November, 1828.

I have to acknowledge the receipt of your Despatch No. 69 of the 15th of April last, respecting the claim of Mr. Simeon Lord against the local Government, on account of two pieces of ground, with the Buildings thereon, which he relinquished agreeably to an arrangement entered into with him by the late Governor Macquarie.

Claim by S. Lord for compensation.

* *Marginal note.*—No. 51, 28 Mar., 1825; No. 71, 10 May, 1828.

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Approval for payment of claim.

His Majesty's Government cannot approve the principle of suffering claims of this nature to remain so long unadjusted; but, as it appears from the opinion of the Law Officers of the Colony that the payment claimed by Mr. Lord could not be legally resisted, I have to sanction the terms upon which that payment has been agreed to be made.

I have, &c.,
G. Murray.

Governor Darling to Sir George Murray.

(Despatch marked "Separate," per ship Ellen.)

Sir, Parramatta, 26th November, 1828.

Court-martial on R. Robison.

Understanding that Captain Robison of the Royal Veteran Companies, who has been lately tried by a General Court Martial (the Proceedings of which have been transmitted for His Majesty's consideration) has written to your Department on the subject, wishing it to be understood that the proceedings of some Persons, employed under the Civil Government, are involved in or connected with the Charges on which he has been tried, which is no respect the case; I beg to refer you, should you think it necessary to enter into the matter, to a Despatch which I have addressed under this date to General Lord Hill, respecting the continued misconduct of this Officer.

Reference to military report.

Family connections of R. Robison.

Connected as Captain Robison is here, being married to a Daughter of one of the Judges,* and countenanced as he has been by others, to which I have already adverted in the Despatches I have had the honor to address to your Office, I need hardly repeat that a Man of his turbulent Character in such a Community is particularly dangerous.

Detention of R. Robison.

I have stated in my Despatch to Lord Hill the reason why I have not felt myself at liberty to permit Captain Robison to return to England, though I must observe at the same time that his detention is attended with very serious inconvenience, as, like his late Brother Lieutenant Colonel Robison, who opposed the Marquis of Hastings' Government in India, he appears to be constantly engaged with the Opposition Papers, and to furnish the Editors with information of a military nature to prejudice the Government in the Eyes of the Public.

I beg to apologise, Sir, for referring you to a Letter which I have addressed to another Department. I have done so, as the subject relates to the conduct of a Military Officer, and as you may not think it a subject requiring your attention, and, in fact,

* Note 138.

not having the means in my Office to carry on the Business, which, from the unexampled influx of Settlers, is encreasing daily to an almost inconceivable extent. I have, &c.,

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RA. DARLING.

P.S.—The unexpected detention of the Vessel has enabled me to forward the accompanying Enclosure, which I was apprehensive, from the want of means in my Office at the moment, it would not be in my power to have had copied.

Copy of letter transmitted.

R.D.

[Enclosure.]

[*This was a copy of the despatch to Lord Hill.*]

GOVERNOR DARLING TO GENERAL LORD HILL.

(Despatch per ship Ellen.)

My Lord, Parramatta, 26th November, 1828.

The insolent and turbulent proceedings of Captain Robison, of the Royal Veterans, have obliged me once more to trespass on your Lordship's time by submitting the following particulars for your Lordship's consideration.

Report *re* R. Robison.

Captain Robison's Letters have been so numerous and of so extremely improper a nature, that I have at length been obliged to forbid the Public Officers corresponding with him, perceiving that he has gladly availed himself of the opportunities, which have been afforded him by replying to their Communications, of indulging his intemperate disposition and repeating his insults.

Prohibition of official correspondence with R. Robison.

In proof of what I now state, I beg leave to enclose the Copies of two Letters which have passed between the Colonial Secretary and Captain Robison. It may be proper to state in explanation that having determined on bringing Captain Robison to a Court Martial (he being at the time under Arrest), I did not think it expedient to enter at that moment into an investigation of the Representations he had made against the Superintendant of Police and the Superintendant of Works at New Castle; being satisfied that nothing, he had alleged with respect to their proceedings, could in any way affect the Charges on which he was himself to be tried, though his object, however artfully concealed, was, by impeaching their Character, to prevent their being brought forward as Witnesses against him.

Charges against officials at Newcastle.

After his Court Martial had closed, he was ordered, as will appear by the enclosed Copy of a Letter from the Acting Major of Brigade, to return to his Station at New Castle, and he was apprised by the Colonial Secretary, three days after, that an Investigation had been ordered to take place at New Castle

Orders for return of R. Robison to Newcastle.

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Inquiry *re* charges against officials at Newcastle.

into the conduct of Mr. Wright and Mr. McKay; he nevertheless remained in Sydney. The Investigation, however, commenced at New Castle on the 3rd of October, the only place where, from the nature of the facts represented, it could properly be entered into; and, to shew there was no desire of screening Mr. McKay, he has in consequence been dismissed from his Situation. It may, however, be proper to state here that Mr. McKay's offence was not of a very grave or serious Character, and that his dismissal was intended more as an Example to prevent others from acting as he had done, than from any idea of his guilt being of such a nature as to require any severe punishment. The facts are simply as follows:—

Statement *re* McKay.

Mr. McKay as Superintendant of Works had a number of Convicts under his charge and also some Waste Lands belonging to the Government.

There is a Cottage at Nelson's Plains, the Place particularly alluded to, which being vacant, a Convict has been kept there to prevent its being destroyed.

Captain Robison's Charge against Mr. McKay was that he had employed this Man and another Watchman occasionally, in raising Corn on the Government Waste Land for his private advantage; That he kept Cows there and sold Cheese and Butter, and occasionally made use of the Government Boat, allowed for the performance of his duties, to visit his Dairy. These facts having been generally substantiated, and Mr. MacKay having without Authority made use of "Nelson's Plains," it appeared to me proper to remove him from his Situation.

Dismissal of McKay.

I have been the more particular in entering into this detail, as Captain Robison would fain have it believed that he attaches great Importance to the Investigation not having taken place before his Trial, whereas Mr. McKay's guilt or innocence cannot affect Captain Robison's case as will be seen on reference to the Charges, which relate solely to Captain Robison's Conduct and are totally unconnected with Mr. Wright or Mr. Mackay.

Statement by S. Wright.

The enclosed Copy of a Paper, which Mr. Wright delivered in after the Court of Enquiry had closed its proceedings, appears to me, considering the Character which that Gentleman, who was a Captain in the Buffs, has universally borne, perfectly satisfactory as to his not having been implicated in any dishonorable proceedings.

On the 16th October more than three weeks after Captain Robison had been first informed in Sydney (a second Letter having been written to him to the same effect on the 1st of October, which was addressed to New Castle, he having been

ordered to return to that place on the 20th September) that an Investigation was to take place, he addressed a Letter to me with Copies of various Depositions relating to the Allegations against Mr. Wright and Mr. Mackay, purporting to have been taken in Sydney before his Brother-in-Law Mr. John Stephen. The Colonial Secretary (Captain Robison's Allegations being against Persons in the Service of the Civil Government) then wrote a Letter to Captain Robison, of which Enclosure No. 1 is a Copy, informing him, as he had failed to attend the Investigation, that no further attention would be paid to his Representations, to which he replied, as will be seen by Enclosure No. 2, to the public Organ of the Government in the most intemperate and insulting Language.

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Allegations by R. Robison.

2. I regret it is necessary for me to trouble your Lordship with still further instances of Captain Robison's insolent demeanour, and I beg to transmit Copies of two Letters which have passed between him and the Deputy Commissary General on the subject of Allowances which he claimed, but to which he was not entitled, as will be seen when it is explained that one of the items was a charge for his passage from New Castle to Sydney on an occasion, when he quitted his Post without leave, and was in consequence put under Arrest.

Insolent conduct of R. Robison.

3. It now only remains for me to forward the Copy of a Letter, which Captain Robison has addressed to Captain Forbes, 39th, the present Acting Major of Brigade, whom he has endeavoured to provoke by his insulting Language and Demeanour, as he has every other Person with whom he has been in communication.

Insulting language used by R. Robison.

I have already stated that I found it indispensible to the Character of the Government and the Military Service to forbid the public Officers corresponding with Captain Robison, in consequence of the insolent manner in which he wrote to them. It is to this to which he alludes, when he desires that a third person may be present during his Communications with the Acting Major of Brigade.

Prohibition of correspondence with R. Robison.

With respect to Paragraph No. 5 of his letter, I have to observe that his Lodging money was discontinued from the 24th September, as he had been ordered to return to New Castle on the 20th of that month, as appear by Enclosure No. 3.

Lodging money discontinued.

He states in Paragraph No. 6, what the Deputy Commissary General does not admit, that he applied to him to be furnished with a passage to New Castle. It would be some excuse, if it could be supposed that his intemperance harries him into assertions, which he is not aware at the moment are totally without foundation.

Alleged application for passage.

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Request for transmission of correspondence.

After perusing such Letters as I have now transmitted, the request, contained in the 8th Paragraph of that immediately under consideration, cannot fail to appear extraordinary, namely that the whole of his correspondence should be communicated to your Lordship. I should be extremely unwilling to waste your Lordship's time by subjecting you to a perusal of his almost innumerable Letters. Those, I have enclosed, have not, I assure your Lordship, been selected from any peculiarity in their composition or Character, but in consequence of their bearing on particular points, as the Pen of Captain Robison invariably pourtrays the turbulence of his Disposition.

Reasons for not enforcing return to Newcastle.

Although I have unavoidably trespassed so long on your Lordship's time, I feel myself called on to explain why I did not enforce the Order, I had given to Captain Robison, to return to New Castle. I was aware that Captain Robison had tampered with the Men of his Company, and of their litigious and disorderly disposition probably to be attributed to his proceedings; and that his return to New-Castle, where there were no other Troops, might prove more mischievous than his remaining here, though he has been busily employed with the Editors of the Opposition Papers.

This is the reason which has influenced me in not obliging him to return to New Castle, and I trust your Lordship will consider I have not acted injudiciously in the peculiar circumstances of the case. Captain Robison, like his late Brother in India, has employed every means to insult and vilify the Government, which the Press, his Correspondence or personal Communication has afforded. I have not permitted him to return Home, as my Instructions forbid it, and being aware that his presence in England previous to the decision on his Court Martial would from his Character have been attended with very serious inconvenience. I have, &c.,

Prohibition of return to England.

RA. DARLING, Lt. General.

[Enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO CAPTAIN ROBISON.

Sir, Colonial Secretary's Office, 30th October, 1828.

Reasons for refusal to notice representations by R. Robison.

The Governor having referred to me the letter, which you addressed to His Excellency on the 16th of this Month with its Enclosures, I have only to observe to you on the subject that, as you failed to attend at Newcastle to substantiate the representations which you had made against the Superintendent of Police and the late Superintendent of Works at that place, although you were apprised, by my Letter of the 23rd of September, that an Investigation had been ordered, no further attention will be paid to your representations.

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I think it proper however to add that, on reference to the Depositions which accompanied your letter, it appears that the Principal affidavits brought forward by you are totally at variance with the Depositions of the same Individuals made publicly at the Court of Enquiry, and that consequently the testimony of these Individuals is rendered altogether Nugatory. Unreliability of testimonies

I have, &c.,
ALEXR. McLEAY.

[Enclosure No. 2.]

CAPTAIN ROBISON TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 30th October, 1828.

I have just received your letter of this day's date, referring to mine of the 16th inst. addressed to His Excellency Lieut. General Darling, when enclosing Depositions of the Unwarrantable practices of Mr. Wright and Mr. Mackay, the Police and Convict Superintendents, etc., at Newcastle, as reported by me whilst commanding the Troops upon that and the Port Stephen Station. Letter acknowledged

You now inform me that, in consequence of my having failed to attend the Enquiry, held a fortnight back at Newcastle, to substantiate the representations I had (nearly seven months before) made against the above Individuals, no further attentions will be paid to my representations. Result of non-attendance at inquiry.

This intimation I beg to assure you, Sir, is what I fully expected would be the result of the Equivocal course you thought proper to adopt in the Investigations of those Transactions, and which is in perfect consistency with the whole of this Government's conduct towards me, whenever I have had occasion to make reports connected with the proper discharge of my duties.

The Letter, you again refer to having written me on the 23rd Ultimo, neglected to state (as I informed you in my reply of the 9th inst.) that it was in consequence of my reports this inquiry was instituted, or that my presence at New Castle was needed. On the contrary you told me it was owing to Mr. Scott of the Commissariat Reports; but, in the Letter you addressed to me of the 1st inst. which you forwarded to New Castle (knowing at the time I was in Sydney and therefore could not receive it), you Informed me that the Principal Superintendent of Police, Lt. Col. Morissett, had been substituted for the Principal Superintendent of Convicts, and was ordered, in conjunction with Lieut. Warner, J.P., of my company, to investigate the reports I had made many months before of the Conduct of Messrs. Wright and Mackay. Inquiry initiated.

I am here naturally led to enquire, If either the honor of this Colonial Government and His Majesty's Service had been kept in view, or even handed justice meant to be dispensed towards me, how came it to pass that Seven Months should be allowed to elapse before any Notice was taken of my official Reports of the conduct of the above Individuals, made by me as officer Commanding at New Castle? And how also such a monstrous act of Injustice should be done, as that of ordering me to appear before this same Superintendent of Police (whose improper conduct I had been previously Reporting, but of which I could get no Notice taken) to answer a Crime of Felony for doing that which as Officer Commanding on the Settlement was *subsequently proved** to have been my Duty. Surprise at delay of inquiry

* *Marginal note in original.*— Not fact.

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Protest against S. Wright as magistrate.

It was in vain I remonstrated and appealed to His Excellency The Governor of the injustice of selecting Mr. Wright to sit on the Bench as my Judge upon this occasion, and requesting to have another Magistrate appointed; this was most positively denied me thro' you by the Lt. General Commanding.

Witnesses at court-martial.

Both these persons however were brought forward a short time after by my Prosecutor His Excellency The Governor, Lieut. General Darling, as Evidences against me, before the late General Court Martial which His Excellency had assembled to try me upon Eight Charges he himself had preferred against me. When I stated to you, in my letter of the 23rd August at the close of the Prosecution, that it was absolutely necessary previous to my defence that my former Reports of Messrs. Wright and Mackay should be investigated, having detained my Witnesses for months in Sydney at a great Expense, and both Mr. Mackay and Wright being present, You informed me, in your letter of the 26th August, that at the *present moment* it did not seem necessary to enter upon the Enquiry! But I shall take the liberty of calling your attention to the *time* when it was thought advisable to get up and go into this Inquiry.

Refusal of evidence.

You are already aware, Sir, that the Court Martial would not allow me to bring forward the Evidences now alluded to, as they went to impugn the testimony of Messrs. Wright and Mackay, the Witnesses for the Prosecution; but an assurance was given by the Deputy Judge Advocate that an Enquiry would be instituted, but *when* it was out of his power to say. After my Trial was over

Time of holding investigation.

and when it was then too late for me to prove to the Court how interested these men were in giving their Evidence against me, after being harrassed by a daily attendance upon a trial which lasted upwards of two Months, and at the very time when a dangerous illness confined my Wife to her Bed (as was certified by her Medical Attendants, for which they were so indecently interfered with), I am then ordered to Newcastle by His Excellency Lieut. General Darling, and then and not until then is an investigation got up, which I consider, under all the circumstances attending it, a perfect Mockery, and highly disgraceful, inasmuch as these interested Individuals had several months of time allowed them to tamper with my Witnesses and Stifle the truth, and which never could have been the case had even handed justice been done me by ordering an Enquiry at the *time* when my first reports were made of their Conduct.

You conclude your Letter of this Morning by one of those specious assertions, which are peculiar to you, and which is not the fact.

Depositions submitted by R. Robison.

You state that the Depositions, I had enclosed to His Excellency on the 16th inst., are totally at variance with the Principal affidavits made publicly before the late Court of Enquiry at New Castle! Now, Sir, this could not have been the case, as neither Meehan, Brooks, Lawson, or McGee (and I have my doubts of Lednard) at all events four out of the Six, I had enclosed to the Governor on the 16th inst., had ever left Sydney, until the Court of Enquiry had closed its proceedings at New Castle, and which you will find I stated to you in my Letter of the 9th inst., so that how you can conclude their testimony to be rendered altogether nugatory, it is impossible for me to comprehend.

I again finally repeat my conviction that the whole course, adopted with reference to my Official Reports of the Conduct of

Messrs. Wright and Mackay, has not only tended to obstruct and screen those parties from the due investigation of the Charges, I had preferred against them, but also to bring contempt and disgrace upon His Majesty's Officers (as was my case) when placed in command of Out Stations in this peculiarly constituted Colony, and which I shall be fully prepared to prove, if I have not already done so, when the proper opportunity arrives. 1828. 26 Nov. Alleged effects of course adopted.

I have, &c.,
R. Robison,
Captn., N.S.W. Rl. V. C's.

[Enclosure No. 3.]

Captain Sturt to Captain Robison.

Sydney, 20th September, 1828.

Sir,

I am directed to acquaint you, in reply to your Letter of the 17th inst., that the Lieutenant General cannot determine on your application to be permitted to return Home, until he shall have been honored with His Majesty's Commands on the subject of your recent Trial by a General Court Martial. I am further directed to point out to you that any application, which it may be necessary for you to make to the Lieutenant General, is to be addressed to me as the Acting Major of Brigade. Refusal of permission for return to England.

I am to signify the Lieutenant General's Orders that you return immediately to New Castle. I have, &c., Orders for return to Newcastle.

Charles Sturt,
Acg. Major of Brigade.

[Enclosure No. 4.]

Colonial Secretary Macleay to Captain Robison.

Colonial Secretary's Office,
Sydney, 23rd September, 1828.

Sir,

With reference to your letter of the 23rd Ultimo, I am directed by His Excellency the Governor to inform you that the Principal Superintendent of Convicts will proceed very shortly to New Castle for the purpose of investigating, in conjunction with Mr. Warner, the Representations which have been made against Mr. McKay, late Superintendent of Convicts and Public Works at that Station, and Mr. Wright, the Superintendent of Police. Inquiry to be held at Newcastle.

I have, &c.,
Alexr. McLeay.

[Enclosure No. 5.]

Statement by Mr. S. Wright.

Newcastle, 6th October, 1828. Statement by S. Wright *re* charges made by R. Robison.

The Court of Enquiry having closed its proceedings, I request the President will be pleased to submit the following Statement for the consideration of His Excellency The Governor.

Captain Robison, in his numerous complaints and charges against the late Superintendent of Convicts (Mr. MacKay), has in every instance artfully introduced my Name as intimately associated with this individual in his private affairs, to induce a belief that our interests were so mixed up together that Captain Robison found it impossible to separate us in his correspondence; to confirm this belief, he has on all occasions industriously circulated a Report that I was in partnership with the Superintendent of

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Statement by S. Wright *re* charges made by R. Robison.

Convicts in a Dairying and Agricultural Establishment at Nelson's Plains; this in his letter to the Colonial Secretary of 23rd August, he states he is prepared to prove.

Although nothing has been offered to substantiate the charge which he has so boldly advanced, yet I feel it a duty I owe to my Reputation not to suffer it to escape without observation.

I know I cannot be considered a competent Witness in my own case, but, if permitted, am prepared to declare in the most solemn Manner, on my Honor and on my Oath, that I have neither directly nor indirectly been a partner or in any way personally interested in the Establishment alluded to by Captain Robison, nor have I at any time been concerned with Mr. Mackay in any establishment or speculation whatever. I am charged by Captn. Robison, in his letter of 22nd May, with having employed on my Farm in Ploughing for many Months a Government man, grass cutter to the Mounted Police at this Station; for the pressing necessity of my employing this Man, I beg to refer His Excellency to my letter of 28th June to the Colonial Secretary, which has been fully confirmed by the Witnesses brought forward on this enquiry; the time he was employed on this labour (Ploughing) has been satisfactorily proved, as also the fact that the duty required of him here was attentively discharged during his absence by my assigned Servant.

With reference to the commissariat Store Keepers letters to Mr. Laidley, D.C.G., 28th May, and from which letter inferences must naturally have been drawn exceedingly unfavorable to my Character, I beg to offer a few Remarks.

On the return of the Store Keeper from Nelson's Plains (25 miles from his charge, where I believe he had been sent as Agent to Captain Robison), he waited on me, *not* for the purpose stated in his letter to ask my advice, but to inform me that he was determined to report to Mr. Laidley, D.C.G., that two men at that Station drawing rations from Government were employed by the Superintendent of Convicts in erecting fences, milking his Cattle, etc., etc. (even this visit to me of the commissariat Store Keeper, I have reason to believe was made by direction of Captain Robison); in reply to the Storekeeper's (Mr. Scott) communication, I observed that, with respect to the fencing erecting on Government Ground which would enhance its value, I thought the Superintendent was justified in doing so. I made no further remark or observation on the subject, and Mr. Scott on Oath before the Court of Enquiry distinctly stated that I made no attempt to dissuade him from his purpose, although the insinuations contained in his letter would lead to a different conclusion; he also in his evidence denied having implied to me any want of zeal to enquire into the irregularities he complained of, but stated that I placed too much confidence in Mr. Mackay's Statement.

From the whole of Mr. Scott's testimony before the Court of Enquiry, it is evident that he never expected to be called upon to verify on Oath the assertions contained in his Letter of 28th May last; indeed his letter bears internal proof of being the composition of Captain Robison, though it appears in the hand writing of Mr. Scott.

In conclusion, I beg leave to observe that, on receiving the Colonial Secretary's letter (25th August, 1827), conveying His Excellency's Order for the reduction of the Government Establishment

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at this Station, it was immediately acted on; a short time previous to this reduction, I had applied for four Convict Servants, and, on 24th October, 1827, Mr. Mackay received instructions from the Principal Superintendent of Convicts, directing them to be furnished from New Castle Establishment; of this circumstance I did not think it necessary to apprise Captain Robison on his arrival at this Station, and must presume these are the Men he alludes to (never having had more from New Castle), when he asserts that I employed on my Farm many Government Convicts with the knowledge of Mr. Mackay. S. WRIGHT.

Statement by S. Wright re charges made by R. Robison.

[Enclosure No. 6.]

COLONIAL SECRETARY MACLEAY TO CAPTAIN ROBISON.

Sir. Colonial Secretary's Office, 1st October, 1828.

With reference to my letter of 23rd Ultimo, I am now directed by His Excellency The Governor to inform you that the Principal Superintendent of Police proceeds to Newcastle, in the room of the Principal Superintendent of Convicts, to investigate, in conjunction with Lt. Warner, the representations made by you against the Superintendent of Police and the late Superintendent of Convicts and Public Works at that Station.

Inquiry to be held at Newcastle.

Colonel Morisset leaves Sydney this day.

I have, &c.,
ALEXR. MCLEAY.

[Enclosure No. 7.]

CAPTAIN ROBISON TO DEP. COMMISSARY-GENL. LAIDLEY.

Sir. Sydney, 28th October, 1828.

I have the honor to acknowledge the receipt of your Letter of the 27th inst. with its Enclosures herewith returned.

I do not feel authorised to certify "upon Honor" that there was no vessel at Newcastle belonging to an Individual named "Street" of whom I knew nothing, his Name or Vessel not having been mentioned to me in the letter I received from His Excellency Lieut. Genl. Darling through the Acting Major of Brigade and Military Secretary, Captn. Sturt, 39th Regiment. This Letter, which ordered me to Sydney to be tried by a General Court Martial, directed me to proceed "by the first opportunity," and I consequently considered myself as fulfilling those instructions, when I took my passage in the "Liverpool Mail Packet," which was to sail the following day.

Passage of R. Robison from Newcastle.

You inform me that, out of a sum of Thirty Nine Pounds Four Shillings and Sixpence Sterling (the Receipts for which I enclose) being the Amount of Passages paid by me, when proceeding to and from Newcastle, that you are authorised to repay me but five Pounds Seven Shillings and Sixpence! I would beg to be informed under what regulation Lt. Col. Morissett, on the Half Pay of the Army and holding the Civil appointment from Lieut. Genl. Darling of Principal Superintendent of the Police of this Colony, but who upon the present occasion it was found convenient to recognise as "Military Commandant of Norfolk Island," as also Captain Forbes, 39th Regiment, the present Acting Major of Brigade, and Captain Donaldson, 57th Regiment, when ordered down as a Military Court of Enquiry, a few months back, upon my conduct at Newcastle, had all their passages paid; no such forms, as I now return you, were then deemed necessary to be done through; on the contrary, extra

Payments for passage money.

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allowances of various sums were made to those Officers of not less than 1 Guinea per diem each to defray their Expences; but, whenever it has been found possible to expose *me* to ruinous charges under the plea of Duty or otherwise, no *acts* have been left untried to do so; and I am prepared to prove that such Acts have been and still are practised towards me personally by this Colonial Government, as no British Officer was ever before subjected to; and which I feel confident can never be sanctioned by the Authorities at Home, when the unparalleled circumstances attending my case and present situation are laid before His Majesty.

Alleged ill-treatment.

Request for copy of regulation.

May I request to be furnished with a Copy of the local Authority or Order under which you have been instructed to withhold from me the Allowances, which His Majesty's Regulations and the Rules of the Service entitle all Officers to, when proceeding upon duty from One Station to another.

I have, &c.,

R. Robison,

Captain, New S. Wales Rl. V. Comps.

[Enclosure No. 8.]

Dep. Commissary-Genl. Laidley to Captain Robison.

Sir, Commissariat Office, Sydney, 29th October, 1828.

Letter acknowledged.

1. I am honored with your letter of yesterday, returning the Accounts I had enclosed for your Signature to enable me to discharge the Amount of your passage Money from New Castle to Sydney in June last, according to the directions I had received from His Excellency the Governor.

Form of certificate for expenses.

2. With regard to the certificate upon honor attached to the Account, it is a form required to be complied with when Officers are obliged to avail themselves of other means of transport than that provided by Government, to prove the necessity of incurring a greater expense than would have been the case, had they proceeded by the Contractor's Vessels. The circumstance of your having been directed to proceed "by the first opportunity," was not communicated to this Office, nor any special Authority received for paying your passage by the "Lord Liverpool" Packet; consequently the usual course adopted for defraying such Expences was resorted to in drawing up the Account sent to you for signature. I will however lay your letter before His Excellency the Governor, and, if he directs me to dispense with that form of certificate in consideration of his having ordered you up by the first opportunity, it will of course be my duty to obey.

Misstatements by R. Robison.

3d. I beg further to state that no passage money has been paid for the Passages of Col. Morisett or Captains Forbes and Donaldson, on the occasion of their proceeding to and from New-Castle; consequently the form of Account, now required from you, could not have been exacted from them.

Authorities for payment.

4th. The Authorities, upon which the Account tendered for your signature has been drawn up, are the Acting Major of Brigade's letter of the 25th inst., of which I transmitted you a Copy in my Letter of the 27th; and the accompanying Copy of a Memorandum, addressed on the 9th March, 1827, to my predecessor in office, regulating the quantity of baggage which Officers (according to their respective Ranks) are allowed to transport at the Expense of Government between Sydney and Newcastle.

I have, &c.,

James Laidley, D.C.G.

[Enclosure No. 9.] 1828. 26 Nov.

CAPTAIN ROBISON TO CAPTAIN FORBES.

Sir, Sydney, 20th November, 1828.

It having been notified to me by Mr. Kirkland, Agent in London for the New South Wales Royal Veteran Companies, that, by Orders from the Secretary at War, dated 30th May last, Instructions had been forwarded to Lieut. General Darling for the Disbanding of these Companies. Instructions to disband veteran companies.

2d. I have to request you will be pleased without loss of time to inform me whether His Excellency The Commander of the Forces here intends to detain me as a Prisoner any longer in this Colony; and, if not, whether I am not now at liberty to proceed at once to England. Detention in colony.

3d. I am the more urgent that no time should be lost, as the conduct continued towards me personally, ever since my late trial before a General Court Martial, I feel not only to be most oppressive, but quite at variance with His Majesty's Regulations and the established Custom of the Service. Alleged ill-treatment.

4th. You will be pleased to understand that the Unmilitary and unproper means, resorted to through you latterly of communicating Lieut. General Darling's Orders and Answers to my Official letters verbally, render it impossible for me to receive them, unless In the presence of a third person, as I have already had verbal communications made by Individuals of His Excelleney's personal Staff afterwards denied by them, and even the Lieutenant General's own written Instructions to me contradicted. Refusal to accept verbal orders without witness.

5th. I request to be informed the grounds upon which my Lodging Money has been stopped from me since the 24th last September; as you verbally informed me last week was the Orders of Lieut. General Darling. Stoppage of lodging money.

6th. Owing to the neglect of not having His Excelleney's Orders Officially promulgated in the usual manner by Inserting them in the General Order Book, neither the Deputy Commissary General nor the Barrack Master were regularly apprised of my being directed to return to Newcastle, and, in consequence, the former whose duty it would have been was unable to provide me a Passage, although I repeatedly applied to him for one, and notwithstanding His Excelleney's late Acting Major of Brigade, etc., Captain Sturt, 39th foot, informed me he had transmitted such orders to the Deputy Commissary General, which that Gentleman positively denies ever having received, and the Barrack Master had also certified that I was *entitled* to the Lodging Money, now ordered to be stopped, as there was no room for me in the Barracks. Ignorance of orders.

7th. It is similar deviations from His Majesty's Regulations and the known usages of the Service, which has rendered my situation as an Officer in this Command so truly degrading, and which makes it absolutely impossible for me to obey orders which are so contradictorily conveyed. Alleged effect of deviations from regulations.

8th. I finally beg to remark that I am most anxious the whole of my correspondence, as well with His Excelleney Lt. General Darling as the Colonial Secretary, Mr. McLeay, should be forwarded by the first opportunity to the Right Honble. General Lord Hill, Commanding in Chief in England, And also his Majesty's Request for transmission of correspondence.

1828. 26 Nov. Secretary of State for the Colonies, under whose views the New South Wales Royal Veterans were called in from the out Pension for a peculiar Service in this Colony.

I have, &c.,
R. Robison,
Captn., N.S.W. R. V. Cys.

Sir George Murray to Governor Darling.

(Despatch No. 60, per ship Waterloo.)

27 Nov. Sir, Downing Street, 27 November, 1828.

Approval of system for issue of clothing. I have the honor to acknowledge the receipt of your Dispatch No. 76, of the 16th of May last, reporting that, in consequence of the serious inconvenience which had been experienced, and the trouble imposed on the Public Departments by issuing clothing to the prisoners of the Crown at irregular periods, you have been induced, with a view of simplifying the accounts and relieving the several Government Establishments from what appeared unnecessary trouble, to order the issue of the Clothing at two fixed Periods of the year, namely on the 1st of May, being considered the commencement of the winter half-year, and on the 1st of November, the period when Summer usually commences in N. S. Wales; you transmit at the same time Copies of two Minutes, which have been issued by you for regulating the issue of Clothing, the one relating to the prisoners at the penal Settlements and detached Stations, and the other to the Prisoners generally at other Establishments.

There is undoubtedly a convenience in establishing particular days of the year for the issue of Clothing to the Convicts, and I approve the arrangement which you have submitted for this purpose.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 61, per ship Waterloo.)

Sir, Downing Street, 27 November, 1828.

Proposed concessions to officers of E.I. company as settlers. I have had the honor to receive your Dispatch No. 77 of the 17th of May, submitting, for the consideration of His Majesty's Government, whether it might not be advisable to permit the Officers of the service of the East India Company to receive Land in N. S. Wales and V. D. Land under similar Regulations to those established for the Officers of His Majesty's Army and Navy.

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Opposition to proposal by directors of E.I. company.

You will perceive by the correspondence, which took place at the time when those Regulations were adopted, between this Department and the court of Directors of the East India Company (copies of which I herewith enclose) that the importance of encouraging Officers of the Company's service to become Settlers in those Colonies by holding out to them the advantages, which were conferred upon British Officers, has not been lost sight of by His Majesty's Government; But that the Court of Directors have not deemed it expedient to facilitate the retirement of Officers from their service in furtherance of the views of His Majesty's Government in that respect. Altho' I entertain the same desire as my Predecessor to secure by all proper means the acquisition to the Colony of so valuable a class of Settlers as those, who are the subject of this Dispatch, yet, under the circumstances above mentioned, I do not feel myself at liberty to hold out to them advantages, which might occasion to the service of the East India Company the inconvenience pointed out in Mr. Dart's Letter.

I have, &c.,
G. Murray.

[Enclosure No. 1.]

Under Secretary Hay to Mr. T. P. Courtenay.

Sir. Downing Street, 15th June, 1826.

Concessions to army officers as settlers.

I am directed by Earl Bathurst to transmit to you, for the information of the Lords Commissioners for the Affairs of India, the enclosed copy* of the Rules, which His Majesty's Government have thought fit to lay down for regulating the Grants of Land in the Colonies of New South Wales and Van Diemen's Land, together with a Memorandum,* which has received His Majesty's approbation, and which is intended to regulate the terms upon which land in those Colonies may be granted to those Officers of the Army on halfpay, who may be desirous of proceeding to that quarter with a view of becoming Settlers there.

Proposed extension of concessions to officers of E.I. company.

I am to request that you will acquaint the Commissioners for the Affairs of India, in order that the subject may be communicated to the Court of Directors, that every facility will be afforded to such Officers of the East India Company's Service as may be disposed to reside permanently in either of those Colonies; and it is Lord Bathurst's further request that you will submit to the Commissioners how far a similar arrangement to that, which is about to be carried into effect for the purpose of encouraging Officers of the Half pay to establish themselves there, may be adopted in favor of the Officers employed in the Service of the East India Company; as they are a class of persons, who would form most valuable Colonists, and to whom, therefore, Lord Bathurst would be glad to extend the provisions, which it has been thought proper to adopt in regard to the Officers of His Majesty's Service, so far as the terms may be considered applicable to the case of the former.

I am, &c.,
R. W. Hay.

* Note 139.

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[Enclosure No. 2.]

MR. T. P. COURTENAY TO UNDER SECRETARY HAY.

Sir, India Board, 4th September, 1826.

I have laid before the Commissioners for the Affairs of India your letter of the 15th June last, relating to the Colonization of New South Wales and Van Diemen's Land.

Disapproval of proposed concessions.

The Board have considered the suggestions, which Lord Bathurst has directed to be made to them, as to the admission of the Officers of the Indian Army into the proposed arrangement, and have consulted the Court of Directors of the East India Company thereupon; but, while the Board, as well as the Court are sensible of the kindness of the intention with which these suggestions have been offered, they are of opinion that, with reference to the peculiar situation of the Officers of the Indian Army who have retired on halfpay or on full pay, it would not be advisable to include them in the Plan which has been adopted.

For the further information of Lord Bathurst I have received the Board's directions to transmit to you Copy of a Letter, which they have received from the Court of Directors on this subject.

I am, &c.,
T. P. COURTENAY.

[Sub-enclosure.]

MR. J. DART TO MR. T. P. COURTENAY.

Sir, East India House, 17th August, 1826.

Proposed concessions to officers of E.I. company.

I have laid before the Court of Directors of the East India Company your letter dated the 4th Ult., with its enclosures, suggesting, by desire of the Commissioners for the Affairs of India, and in consequence of a communication made to them by Earl Bathurst, whether an arrangement could not be made, by allowing a commutation for halfpay and retired allowances or otherwise, for granting to the Officers of the Company's Army, who may be desirous of becoming Settlers at New South Wales and Van Diemen's Land, facilities corresponding with those which his Majesty's Government have given to Officers in the King's Service in the same situation.

Objections to proposed concessions.

The Court, whilst they receive with gratitude a suggestion, which has in view the extension to the retired Officers of the Company's Army of the same benefits of colonizing at New South Wales and Van Diemen's Land, which are granted to Officers of His Majesty's Army, cannot but consider that there is a material distinction in the two cases, which appears to render the arrangement inapplicable to the Company's Service, no Officer in which is entitled to halfpay, unless he satisfy the Court by the production of Medical Certificate that he is prevented by Ill health from returning to India. The Officer therefore comes in this instance to England, and, if he produce the prescribed Certificate, is permitted by the Court to retire. Of the Officers so situated, there can (it is presumed) be very few, whose health, though unequal to service in India, would be sufficiently robust to undertake the voyage to New South Wales, and all the labor and anxiety necessarily incidental to Colonists during the first years of their residence in the Colony. Neither would the halfpay of the Company's Officers, debilitated as they generally must be in constitution, produce an

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aggregate sum equivalent to that authorized by the King's Regulations for His Majesty's Officers, whose retirement from active service has not necessarily been caused by ill health.

Objections to proposed concessions.

With regard to full pay, the Company's Officers are entitled to that benefit at the end of Twenty two years' actual residence, without reference to the state of health, and without its being obligatory on them to come to England; but, as promotion to the highest rank of the Army is progressive in the Company's Service, it could scarcely be expected that Officers would retire and thereby relinquish promotion, merely with a view to settling in a Colony. The influential motive to retirement in such cases must naturally and indeed is known to be, either regard to health or a wish to spend the remainder of life with family and connections in England, both which motives are more generally felt and operate most powerfully upon Officers, who, like those in the Company's Service have passed the whole of their career in India.

Such are the considerations which lead the Court to think that the benefits of Colonization in New South Wales and Van Diemen's Land would not be deemed acceptable by the Company's Retired Officers; and, with this impression, the Court entertain great doubts of the propriety of taking any steps in view to the establishment in the Company's Service of an arrangement, which, although not likely to benefit their retired Officers, might yet appear to invite those, who were effective, to seek early retirements, and thus have the twofold effect of depriving the Company of Services, when they are most valuable, and of adding to the already burthensome amount of the retired list. It is also to be borne in mind, that the King's Officers, in disposing of their retired pay are in the great majority of instances, only selling that which at a former period they had, by the system of purchase, acquired for a valuable consideration, whereas in the Company's Army no retired allowance is granted but as a consideration for loss of health or for long service.

The Court would be very reluctant to give encouragement to Officers so situated to dispose of allowances, intended to maintain them during the remainder of life, and cannot but apprehend that such a practice might eventually lead to inconvenient and embarrassing applications from Officers, who might have sacrificed their pay without obtaining an adequate maintenance in return.

For these reasons the Court are of opinion that it would not be expedient to adopt, in the Company's Service, any general arrangement such as has been promulgated in the King's Service.

I have, &c.,
J. Dart, Secy.

Sir George Murray to Governor Darling.
(Despatch No. 62, per ship Waterloo.)

Sir, Downing Street, 27 November, 1828.

Convictions by supreme court.

I have received your Dispatch, No. 38, of the 17th of March last, enclosing a Return of the number of Offenders convicted by the Supreme court of criminal Jurisdiction at Sydney, N. S. Wales, in 1825, 1826, and 1827, distinguishing each year the Offences, of which convicted, and the number of Capital Convictions and executions.

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Increase in number of executions.

It is certainly remarkable that, with the decrease of felonies in general, the number of Capital Convictions and Executions should have augmented. But, before I can concur in your opinion that it is the augmentation in the number of Executions, which accounts for the decrease of felonies, I must know how this augmentation has arisen. I am by no means inclined to think that frequent Executions have a tendency to diminish Crime, especially when inflicted, as you report that these have chiefly been, for crimes which are not of the gravest character.

Instructions *re* capital penalty.

It is to the gravest crimes and to these only that the punishment of death is applicable; and I would seriously impress upon you the responsibility incurred by any deprivation of human life, which is not demanded by a clear and paramount necessity; your return would have been more valuable, if it had contained a column, exhibiting the precise Offences for which the Criminals had been respectively executed. In the absence of that specific information, I can only convey to you this general expression of my sentiments upon the important question of Capital punishment, together with my request that you will amend your return by the addition of such a column as I have suggested, which you will have the goodness to introduce into all future returns of a similar nature.

I have, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 63, per ship Waterloo; acknowledged by Governor Darling, 3rd August, 1829.)

Sir, Downing Street, 27 November, 1828.

Approval of reforms in office of colonial secretary.

I have the honor to acknowledge the receipt of your Dispatch No. 110 of the 27th of October, 1827, and to acquaint you that the Regulations, which you have introduced into the Colonial Secretary's Office, and the remuneration, which you have assigned to the respective persons employed in that Department, are approved by His Majesty's Government.

I have, &c.,
G. Murray.

Under Secretary Twiss to Governor Darling.
(Despatch marked "Private," per ship Waterloo.)

Dear Sir, Downing Street, 27th November, 1828.

Approval of regulations.

Sir George Murray has thought it right, on your recommendation, to signify his approval of the Official Regulations* proposed in your Dispatch No. 110; but he wishes to call your attention to your Minute of the 23rd October, 1827, No. 83,

* Note 140.

enclosed in that Dispatch, with a view to your considering whether the rise of Salary to the Clerks in the Junior Class of £20 per annum may not be somewhat too rapid. On the principle which you have suggested, two years will raise the Salary to its maximum, and the operation of this stimulus will, therefore, be very early exhausted; whereas, if the rise were at the rate of five, or even of ten pounds per annum, there would be a continuing inducement to diligence and good behaviour for a considerable period. If then you should agree in the opinion that a more gradual rise would be better, have the goodness to make the alteration accordingly; but if, on reflection, you still think it more expedient to adhere to the Regulation as it now stands, Sir George Murray is satisfied to abide by your judgment respecting it.

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Annual increments for clerks.

I am, &c.,

Horace Twiss.

Governor Darling to Sir George Murray.

(Despatch No. 134, per ship Ellen.)

Sir, Parramatta, 28th November, 1828.

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I have the honor to transmit to you the Copy of a Letter from the Reverend Samuel Marsden, enclosing the Copy of a Correspondence, which had passed between Chief Justice Forbes and himself on the subject of the Chief Justice's Letter to Mr. Secretary Huskisson, which accompanied my Despatch No. 124, Mr. Marsden having expressed a wish in his Letter that this Correspondence should be communicated to you.

Correspondence *re* letter by F. Forbes.

The Enclosure No. 2, to my despatch marked "Separate" of the 8th November, 1828, will I trust satisfy you that the knowledge of Mr. Forbes's Letter to your Department was not obtained directly or indirectly through me, though it was not communicated to me under any obligation of Secrecy; but transpired, I understand, by the means of his own friends.

Disclosure of letter.

I have, &c.,

Ra. Darling.

[Enclosure.]

Reverend S. Marsden to Colonial Secretary Macleay.

Sir, Parramatta, 25th November, 1828.

I was informed, about a month ago, that The Honble. Chief Justice Forbes had written a reply to the Statement I had published in May last; when the Report became general, I expected that His Honor would lay his alleged reply before the Public, when I should have an opportunity of reading it.

Reply by F. Forbes to statement by Revd. S. Marsden.

This, The Chief Justice has not done. From the delay, I was inclined to believe that His Honor had no intention to do so at present: and that he might prefer to lay his Statement before His Majesty's Principal Secretary of State for the Colonies.

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Request for reply from J. Forbes,

and for transmission of letter to England.

As I was ignorant of what the Chief Justice may have said on the subject in question, further than common report, and what was stated in the Sydney Gazette, and being anxious to obtain correct information, I wrote to the Chief Justice, calling upon him for a Copy of what he had stated. To this Letter, I have just received a reply; as a Vessel is expected to sail for London in a few days, I take the liberty to forward to you a Copy of my Letter to the Chief Justice with His Answer, and to request the favor of His Excellency to transmit the same to His Majesty's Principal Secretary of State for the Colonies, in order to shew that it is out of my power to meet any remarks, which the Chief Justice may have made on the Statements which I laid before the Public at the period previously mentioned, until I know what they are.

I have, &c.,
SAMUEL MARSDEN.

[Sub-enclosure No. 1.]

REVEREND S. MARSDEN TO CHIEF JUSTICE FORBES.

Sir, Parramatta, 20th November, 1828.

Request for copy of reply to statement.

A Report has been lately circulated through the medium of the Sydney Gazette that you have written a reply to a Statement, I published in vindication of my Public Character as a Magistrate in May last.

It also appears, from a Letter* under date October 31st, addressed by the Editor to the Governor, published in the Gazette, that a Copy of your reply had been transmitted to His Excellency for his information.

As it is publicly asserted that your reply will "involve me in ruin," that about ten out of the twelve who have perused it say, "It is likely to injure me," I have anxiously waited its Publication, when I should have been prepared to establish the facts, I have published in defence of my Public Character. In this expectation, I have been disappointed, and I no longer delay to call upon you for a Copy of your alleged reply that I may have an opportunity of justifying myself against any erroneous views, you may still take of my conduct as a Magistrate. I have, &c.,

SAMUEL MARSDEN.

[Sub-enclosure No. 2.]

CHIEF JUSTICE FORBES TO REVEREND S. MARSDEN.

Sir, Sydney, 24th November, 1828.

I received your letter addressed to me under date the 20th inst. on Friday last, while I was on the Bench of the Supreme Court, and I take the earliest leisure I have been able to command to reply to it.

Imputations by Revd. S. Marsden.

Your Pamphlet imputes to me, as one of the Commissioners of Enquiry at Parramatta and as a member of the Legislative Council, partiality and injustice. I am not aware that you could have any charge against me, which could more vitally affect my Character, or which, if well founded, would more disqualify me for acting as a Judge of the Supreme Court or as a Member of His Majesty's Council.

Understanding, from private sources of information, that you had transmitted a great number of Copies of your Pamphlet to Members of Parliament and others, with a view to some ulterior proceeding, I wrote a defence of the part, I at least had taken in

* Note 128.

the Court of Enquiry and the Legislative Council, and transmitted the same through The Governor to The Secretary of State, in order to enable His Majesty's Government to meet any motion which your Friends may think proper to make upon the Subject in Parliament, my Letter being entirely defensive, it will depend upon your own proceedings, whether it will ever be made Public. 1828. 28 Nov. Defence by F. Forbes.

I should be desirous on many accounts to send you a Copy of the letter, but your Pamphlet has compelled me to enter into so many particulars, that I cannot with propriety comply with your request. Moreover, my Office will not suffer me to enter the Lists of controversy with any one in this Colony, still less, to vindicate my Character as a Judge or a Counsellor. You have appealed to the Public. I have not followed your example. Should you carry your appeal to Parliament, I have placed my defence in the hands of The Secretary of State, and left the use of it entirely to the discretion of His Majesty's Government. Refusal of copy of defence.

With respect to the Reports which you notice upon the authority of the Sydney Gazette, I need not assure you that they are not to be relied on. It is asserted in the same Paper that you had presented me with a Copy of your Pamphlet. You know that this is untrue; and the assertions, that the Editor might have obtained the perusal of my Letter, and that twelve persons had read it, are equally so. It has never passed from my hands except into those of Confidential Clerks to copy (who are ready to depose that, as far as they are concerned, Mr. Howe's assertion is untrue) and into the hands of the Governor, who has assured me that no such disclosure had taken place through any one connected with His Excellency. I have read it over to four of my immediate Friends, whose Judgment I was desirous of consulting, and I feel some difficulty in believing that either of them has expressed himself in the way you mention. Misstatements in *Sydney Gazette*.

I am not conscious that I have taken an erroneous view of your conduct as a Magistrate. I always believed that you, as well as all the other Magistrates of the Colony with whose Judicial Proceedings I had been made acquainted, had acted from good motives; at least, there never was a case which came in any manner within my knowledge, in which I could discover any supposable motive in the Magistrates for acting otherwise than in the way which they considered themselves authorised and bound to act; Although, at the same time, I knew that, in cases of Summary Jurisdiction over Prisoners, they had acted without any legal authority. Opinion *re* actions of magistrates.

I have, &c.,
FRANCIS FORBES.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Ellen; acknowledged by Sir George Murray, 4th September, 1829.)

Sir, Parramatta, 29th November, 1828. 29 Nov.

I have the honor to forward the enclosed Letter addressed to you by Mr. Mackaness, the late Sheriff, complaining of my proceedings in not confirming by Grant some Land, which had been reserved for him at a time when the Civil Servants were not permitted by His Majesty's Government to receive Grants. Complaint by J. Mackaness *re* land grant.

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In pursuing the course which Mr. Mackaness has taken in his Letter, I have to observe in the first place that his conduct has shewn that he has as little pretension to the Character of a Gentleman of which he boasts, as he has to that of an honest Man, an assertion not lightly hazarded, but which I shall prove before I close this letter.

Character of J. Mackaness.

Application to be referred to England.

It is true that the Colonial Secretary informed Mr. Mackaness, on the 30th of July, 1827, as was my intention at that time, that his application should be referred to the Secretary of State, as from his Character and proceedings I had resolved not to give him any Land myself or grant him any indulgence. It appears, however, that the reference was not made, whether from a pressure of business at the moment or from an opinion, which is more probable, that Mr. Mackaness had no claim to the attention of Government, I do not immediately recollect; being however satisfied, as far as respected Mr. Mackaness's object, it was of no consequence, as I shortly after received the Secretary of State's Authority, without any previous Representation on my part, not to re-appoint him to the Office of Sheriff, and the perseverance of the Man, knowing this circumstance as he does, shews the absence of all proper feeling on his part.

Association of J. Mackaness with opponents of government.

As to my refusing to fulfill my promise without giving him any information on the subject, I can only observe that, openly and publicly as he associated himself with Wardell, the Editor of the "Australian" Newspaper, who formerly conducted the "Statesman" in London, and with Wentworth and the rest of the party in opposition to the Government, I did not consider him entitled to consideration, though his proceedings in this respect were countenanced by Officers holding the highest Situations under the Government, who pursued the same course.

Charges against J. Mackaness.

As to my *prudently declining* to attempt proving the Charges, which he states I preferred against him at the time of his removal, it will be sufficient to refer to my Despatch No. 122, dated 14th December, 1827, transmitting the correspondence which had passed on that occasion, without repeating the subject here.

Retention of fees by J. Mackaness to pay expenses.

With respect to his Statement on the subject of his Accounts, it is totally undeserving attention. The fact is, he withheld the Fees he had received under a pretence of remunerating himself for some Expences which he claimed on account of Travelling and Entertainments, though apprised that the Government did not consider him entitled to them and had refused to allow them. Had he even been entitled to these Allowances, the Course which he pursued was directly contrary to the established Regulations of His Majesty's Treasury, which require that all Fees shall in the first instance be paid into the Colonial Treasury,

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and that a Warrant for the payment of all necessary and authorised Expences shall be issued by the Governor, so as to prevent Individuals doing what Mr. Mackaness found it convenient to do in this case, paying themselves, without allowing the Government to judge of the propriety of the charges. In short, it was found impossible to recover the money due by him to Government in any other manner than by a legal process, as he was deeply involved in debt, and his Surety, who was as profligate and unprincipled as himself, had committed Suicide from an apprehension that he would be ruined from having become responsible for his friend. Mr. Mills was well known in England, as having been formerly in Parliament, and the Sequel of his History may be useful as furnishing a just Commentary on such a Character. The friendship, which subsisted between him and Mr. Mackaness, appears perfectly natural, the result of unity of Sentiment.

Legal process necessary to recover money.

As to the means which he speaks of possessing, as being adequate to the improvement of the Grant of Land he has applied for, I should have doubted the fact, if only from the circumstance of some of his property having been disposed of not long since by the Sheriff, without adverting to the fact that a House, which he bought some Years since from Mr. Wemyss, the Deputy Commissary General, has not been paid for to this day, though the Garden, which is on a large scale, has been a very profitable concern to him, and Mr. Wemyss has lately left the Colony, without having been able to obtain one farthing on account of the Sale of his House.

Means for improving land grant.

Delay in completion of purchase of house.

If Mr. Mackaness's demerits as a public Man were not sufficient to shew how disreputable his Character is, and how unworthy of the attention of Government, a variety of instances such as the above might be adduced; I shall however trouble you with only one fact more, and, as this had its Origin in England, you will have an opportunity, Sir, should you consider it necessary, of satisfying yourself whether he had not deservedly earned the Character of Swindler, even before his Arrival in this Colony.

Alleged misconduct in England.

It will, I think, be found that he possessed himself of a Sum of money to no very inconsiderable Amount, belonging to a Lady in Gloucestershire of the name of Heming. The money, I believe, was to have been vested in the Funds for her benefit, and, while in England, he paid her the Dividends as though it had been so vested, or the Interest of the Money, I am not exactly informed which. But this I do know that, having discontinued the payments to Miss Heming on leaving England,

Misappropriation of trust funds.

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Misappropriation of trust funds.

the unfortunate Lady has been reduced to such distress as to be indebted to the benefactions of her friends for the necessary means of support, and some of those friends happen to be Connexions of mine. The enclosed is a Copy of a Letter which I received from Mr. Wilmot Horton, relative to this matter, and I have only to add, that Mr. Mackaness has not thought it necessary to repay the Advance of *£120*, or to take any notice of the Letter which I wrote to him on the subject of Mr. Wilmot Horton's Communication.

Character of some officials.

I shall abstain, Sir, from pursuing Mr. Mackaness's Representation; though I do hope it will furnish you with some means of judging of the character and description of several of the Individuals in the Employment of Government, whom I have had to deal with here. Swindlers destitute of all principle and Radicals from principle opposed to the Government; with a Chief Justice receiving at his House and entertaining on a particular occasion (at a Dinner given to a Stranger of distinction) the Editor of the "Australian," a violent Opposition Newspaper, whose Calumnies on the Governor and the Government were at that moment of the grossest Character!

Having stated that I should prove, before closing my Letter, that Mr. Mackaness has as little pretension to the Character of a Gentleman as he has to that of an honest Man, I shall mention an occurrence, having as I presume established the latter, which will I think be sufficient to shew that the assertion generally rests on pretty good foundation.

Testimonial given by F. Forbes and J. Stephen.

I perceive that the Enclosure No. 4 to Mr. Mackaness's Letter is the Copy of one from Chief Justice Forbes and Mr. Justice Stephen, bearing testimony to his Conduct as Sheriff, and stating that they did not recollect any instance of Complaint made or any "proceeding commenced" against him (what an extraordinary introduction in a Certificate of Character) in the Court, during the three Years and a half he had held the Office of Sheriff! Notwithstanding this honorable testimonial, which is dated the *15th of February, 1828*, Mr. Mackaness was put on his Trial in the Supreme Court on the *29th of that Month*, just 14 days after the date of their Letter, for an Assault on the Solicitor General at the end of December last, which was only six Weeks previous to the date of the said Letter, these Gentleman being in attendance at the time in their Official Capacity at the Quarter Sessions held at the Town of Liverpool. The facts are briefly these: After the business of the day, the Sheriff, the Solicitor General, the Chairman of the Sessions and the Magistrates dined together. Mr. Mackaness was observed

Prosecution of J. Mackaness for assault.

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Prosecution of J. Mackaness for assault.

soon after dinner to have drunk more than was consistent with a State of Sobriety, and his Language and Observations became extremely offensive. The Company in consequence broke up, and the Solicitor General and the Chairman retired, so as to avoid Mr. Mackaness. Not having satisfied himself, *he* joined the Jury in another Room, who were still at Table (*the Jury of the Quarter Sessions in the inconsiderable Town of Liverpool in New South Wales*) and partook of their Liquor, till he effected what he had not been able to accomplish at the Magistrates' Table. Mr. Mackaness then sallied forth, and, though the Solicitor General and Chairman had retired to a part of the House where they hoped not to be discovered by him, he found them and not only abused in a very gross manner, but collared and assaulted the Solicitor General *without any provocation whatever*. The cause was taken by this Gentleman before the Bench of Magistrates in Sydney; but Mr. Mackaness objected to the jurisdiction of the Magistrates, considering them incompetent to try him for any Act during the time he held the Office of Sheriff. The Cause was in consequence brought into the Supreme Court on the 29th February, when Mr. Mackaness was found guilty of the Assault on the Solicitor General, and, being brought up for Judgment (which did not take place till the 2nd of June, more than three Months after his Trial), he was sentenced to pay a fine of *Five Pounds*!

Criticism of testimonial from judges.

Having already adverted to this circumstance in a former Despatch,* I should not have done so on this occasion, had not the testimony, which their Honors the Judges have borne to Mr. Mackaness's Character, attracted my attention. I allude to it now with a double view of drawing your's, Sir, to the result of that Trial, as well as to shew what little Claim Mr. Mackaness had to such Testimony, and that the Judges could not be ignorant of the proceeding which led to his Trial, though, *strictly speaking* they have correctly stated, that no *proceeding had commenced* against him in the Supreme Court at the time their Letter is dated, the 15th of February. He was, however, tried in that Court, as I have stated, only fourteen days after, for an Offence committed *six Weeks before the date of their Letter,* and it was well known, from the moment the cause was dismissed by the Magistrates, that it was to be brought into the Supreme Court and Steps were taken accordingly.

I beg, Sir, most unfeignedly to assure you that nothing is more painful to me than repeating and dwelling on such subjects as the present, and I do so only as an indispensable public duty, considering it as I ever must of the very first importance that, in the station you hold, you should be fully and correctly

* Note 141.

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informed of the description of Persons who have been sent out to this Government, and the arduous nature of the duties which have consequently devolved on me.

Reasons for repetitions.

The frequent changes of late in the Department, over which you preside, is the cause of my repeatedly recurring to the same subjects, as it is not to be expected, in the multiplicity of important concerns in which you are engaged, that you could refer to a correspondence, which from the time that has elapsed without its having been acted on, might perhaps be considered obsolete.

Party in opposition to government.

It is true that some of the dependant branches of the Opposition Party have been removed, But I do not hesitate to say that, so long as the Root and Stem remain, the Party will be invigorated by fresh Scions and the Evil will thus be perpetuated.

Effects of opposition.

The consequences are perhaps more important than meet the Eye at first sight. The time and attention, which should be devoted to the business of the Government, especially in a rising Colony like this, and I may say that no Estimate can be formed at Home of its rapid Advancement, are occupied in Controversies with Individuals, which cannot however be neglected by the Government, or the Arts and Chicanery which are resorted to would, if not exposed, subject the best intentions and the fairest reputation to disgrace and ruin.

Colonial estimate of character of governor.

Notwithstanding the efforts that have been made, I refer with confidence to the estimation in which my Character is held in the Colony, though assailed by the Opposition Papers, one edited by a Lawyer too of considerable talent, and countenanced and supported as they have been by some of the first Officers of the Government.

I have no desire, Sir, to boast of what I have accomplished under all these disadvantages; but I feel assured that neither the Organisation of the Government nor the State of the Colony will reflect discredit on me. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. J. MACKANESS TO SECRETARY OF STATE.

Sir. Brisbane Cottage, Sydney, N. S. Wales, 1st Septr., 1828.

Application by J. Mackaness for land grant.

I have the Honor to inform you I arrived here in July, 1824, and, in consequence of a Letter I brought with me from Mr. Wilmot Horton, I was sworn into the Office of Sheriff of this Colony on or about the 21 of that Month. That I soon after bought seven hundred acres of land near Liverpool and seventeen here; that I have laid out and expended between three and four thousand pounds in improving and cultivating the same; that, in May, 1825, Sir Thomas Brisbane, the then Governor of the Colony, directed the Surveyor General of the Colony Mr. Oxley to measure and give me possession of 2,000 acres of land as a reserve; that, although

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29 Nov.

Application by J. Mackaness for land grant.

I frequently applied to the Surveyor General, it never was done. In July, 1827, Mr. Oxley informed me I might now have 2,000 Acres of land in a desireable situation vacant by the death of Doctr. Towsend, that I had only to write to His Excellency Lieut. Genl. Darling stating my claim, and I should have it as matter of course, as it was not promised to anyone; in consequence of which, I wrote to Mr. McLeay, the Letter dated July 19th, 1827, and copied in a Paper marked No. 1 sent herewith, and receiving for an answer the Letter dated 30th of July and also therein copied. I replied on the 15 of Octr. as copied in the same Paper No. 1 and on the 29 of Novr. I received an answer dated the 28, and Copied in the same Paper marked No. 1. On the 10th of Octr., 1827, I wrote to the Surveyor General for a Copy of Sir Thos. Brisbane's Warrant, a Copy of the Answer, and also of a Letter from Mr. McLeay, I take leave to enclose; the Paper is marked No. 2d. Notwithstanding Mr. McLeay is directed by His Excellency the Governor to inform me that the Book alluded to by Major Mitchell does not contain a Copy of the individual warrant, I have the Honor to send you a Copy taken by myself from the Surveyor General's Book: it is marked No. 3. I have written to Sir Thomas Brisbane to request he will have the goodness to call at your office and authenticate the instrument, the existence of which is denied. In addition to my land, I have an ample stock of Cattle, Sheep and Horses, and, as Crown Officers are I believe entitled to a grant of 2,560 Acres, if they have the means of cultivating them, I trust you will have the goodness to direct that number of Acres to be given me out of Dr. Townsend's stations. I make this request to you, because it is clear I shall not obtain any land from His Excellency Lieut. Gl. Darling, he having denied the existence of a Warrant he must have seen and read, as he confesses my name was in the Book for 2,000 Acres, and there are only forty six names between my name, and the Warrant as copied in No. 3. I am sorry to be compelled to trouble you on this subject, but justice to myself reqnires it.

I have, &c.,
J. Mackaness.

[Sub-enclosure No. 1.]

[A] Mr. J. Mackaness to Colonial Secretary Macleay.

19 July, 1827.

Sir,

Request for land grant.

I am informed the Stations of the late Doctr. Townsend on Goulburn Plains will in a very short time be at the disposal of Government. I have therefore to request that I may be considered as an Applicant for one of them not having any land measured to me, although Sir Thomas Brisbane two years since directed I should have 2,000 Acres. I will in a few days send you the native name and description of the station I wish.

J. Mackaness.

[B] Colonial Secretary Macleay to Mr. J. Mackaness.

Colonial Secy. Office, 30 July, 1827.

Sir,

Request to be referred to England.

Having submitted to the Governor your Letter of the 19th instant, wherein you request that you may be considered an Applicant for one of the Stations of the late Doctr. Towson on Goulburn Plains, the native name and description of which you will shortly forward, I am directed by His Excellency to Inform you that your application will be referred for the consideration of the Secretary of State.

A. McLeay.

1828. 29 Nov.

[C] Mr. J. Mackaness to Colonial Secretary Macleay.

Sir, 15 Octr., 1827.

Land applied for known as Tirranna.

I have the Honor to inform you the native name of the Station of the late Doctr. Townsend, which I applied for by my Letter of the 19th of July last, and which Mr. Oxley assured me was disengaged and would as matter of course be granted to me under Sir Thomas Brisbane's Warrant is "Tarranna" and is situated on the East side of a chain of Ponds falling into the Wollondilly River on Goulburn Plains. I am informed most of the Gentlemen, whose names are mentioned in the Warrant, have had Grants given them by His Excellency Lieut. Genl. Darling, and I know His Excellency has given possession of land, thought by other Governors too valuable to dispose of, and therefore kept as Crown Reserves, without referring the Applicants to the Secretary of State. I have therefore respectfully to request His Excellency will assign his reasons for refusing to give me what, upon the best information I can obtain, I consider my right under Sir Thomas Brisbane's Warrant.

Request for reasons for reference to England.

J. Mackaness.

[D] Colonial Secretary Macleay to Mr. J. Mackaness.

Sir, Colonial Secy. Office, 28 Novr., 1827.

Letter acknowledged.

I have had the Honor to receive and to submit to the Governor your Letter of the 15 ult., stating that the native name of the land for which you applied on the 19 of July last is Taranna, situated on the East side of a Chain of Ponds falling into the Wollondilly River on Goulburn Plains; that you have been informed that most of the Gentlemen, whose names are included in Sir Thomas Brisbane's Warrant, have had Grants given them by His Excellency Lieut. Gl. Darling; that you know His Excellency has given possession of lands kept as Crown Reserves without referring the Applicant to the Secretary of State; and that you request therefore he will assign his reasons for refusing to you what you consider as your right. In reply, I am directed by His Excellency to inform you that all grants of land without exception are subject to confirmation of the Secretary of State, who will determine as to your right to one; And to add that, although His Excellency may have authorized others to take possession of land, which had been reserved by His Predecessors, he should consider it inconsistent with the discretion, His Majesty has been pleased to allow him, to confirm your grant, even if he had the power in the present instance.

Reasons for reference to England.

A. McLeay.

[Sub-enclosure No. 2.]

[A] Dep. Surveyor-General Mitchell to Mr. J. Mackaness.

Sir, Surveyor General's Office, 25 Octr., 1827.

Inability to supply copy of warrant.

I am sorry that it is not in my power to supply you with a Copy of a Warrant, signed by Sir Thomas Brisbane in Novr., 1825, directing the Surveyor Genl. to measure you 2,000 Acres of Land requested by your Letter of the 16th inst., as the Book, containing the General Warrant, has been transmitted to the Colonial Secretary Office.

T. L. Mitchell, Depy. S. Gl.

[B] Mr. J. Mackaness to Colonial Secretary Macleay. 1828. 29 Nov.

Sir, 26 Oct., 1827.

In consequence of a receipt of a Letter from the Deputy Surveyor Genl., a copy of which I send you, I have to request the Honor of your transmitting to me a Copy of the Warrant or order of Sir Thomas Brisbane mentioned therein. Request for copy of warrant.

J. Mackaness.

[C] Colonial Secretary Macleay to Mr. J. Mackaness.

Sir, Colonial Secrty. Office, 29 Octr., 1827.

I have had the Honor of receiving this morning your Letter of the 26 instant, requesting a Copy of Sir Thomas Brisbane's Warrant directing the Surveyor General to measure you 2,000 Acres of land, as you understand from the Deputy Surveyor General that the Book containing the said Warrant has been sent to this Office. In reply, I am directed by His Excellency the Governor to inform you that the Book alluded to by Major Mitchell only states the quantity of land, and does not contain a copy of the individual Warrant. Reply to request.

A. McLeay.

[Sub-enclosure No. 3.]

Extract from the Book of General Warrants and orders for Land in the Surveyor General's Office, Sidney, N. S. Wales. Extract from book of general warrants.

List of Orders for Reserves of Land by His Excellency Sir Thomas Brisbane, 1825.

Number.	Name.	Quantity of land.	Time.
49	J. Mackaness	2,000 acres	17th May.

Then follow 46 more Names with certain quantity of land to each name.

You are hereby required and directed to mark and measure for the Individuals in the foregoing list, number from 1 to 96 inclusive, the number of Acres of land specified against each name respectively, and to place them or their legal representatives in possession thereof, the same lands being reserved for their use with the intention of grants being hereafter passed under the great seal of the Colony in the usual manner, when they cease to be in the employ of the Crown, or when they have complied with the terms on which the same are now reserved, and for so doing this shall be your sufficient Warrant.

Given under my hand and Seal, 22 Novr., 1825.

T. Brisbane.

[Sub-enclosure No. 4.]

Mr. Justices Forbes and Stephen to Mr. J. Mackaness.

Sir, N. S. Wales, Sydney, 15 Febry., 1828.

In reply to your Note addressed to the Chief Justice, dated the 11 instant, requesting an official document communicative of our opinion of your conduct as Sheriff during the time you held that office, we have much satisfaction in giving you this testimonial, and in stating that your diligence and fidelity in the discharge of the duties of your office, so far as they come under our observation, were such as to deserve our entire approbation. Testimonial for J. Mackaness.

1828. 29 Nov.

Testimonial for J. Mackaness.

In confirmation of our opinion, we may state the fact that we do not recollect any instance of any complaint made or any proceeding commenced against you in the Court during the three years and a half that you held the Office of Sheriff.

We have, &c.,
FRANCIS FORBES, Chief Justice.
JOHN STEPHEN, Judge of the Supreme Court.

[Enclosure No. 2.]

SOLICITOR-GENERAL SAMPSON TO COLONIAL SECRETARY MACLEAY.

Sir, Court House Chambers, 10th December, 1828.

Suit against J. Mackaness for recovery of fees.

With reference to your Letter of the 3rd inst. requesting me to report for the information of His Excellency the Governor a full Statement of the Action against Mr. Mackaness, the ground of it, and its present State, I have the honor to report, in reply, the following Statement of that Action. In September Term of the present Year, an information was Filed at the Suit of The King against Mr. John Mackaness (late Sheriff of the Colony) for the recovery of the Sum of £516 2s. 9d. being the Balance of Fines and Fees, received by him in his capacity of Sheriff, and remaining unaccounted for to the Government. A portion of the above sum (£91 5s.) had been retained by Mr. Mackaness in the Year 1826 as the Salary of the Provost Marshal, together with the further Sum of £424 17s. 9d., being the Balance of Fines and Fees received by him during the Year 1827, and amounting in all to the Sum of £516 2s. 9d. The cause was heard before His Honor The Chief Justice and two Assessors. The Evidence adduced on behalf of the Crown was in substance to the following effect. Early in the Year 1824, Mr. Mackaness was appointed to the Office of the Sheriff of this Colony by His Majesty's Government at home, with a *Fixed* Salary of £1,000 per annum,* which was to be received by him in lieu of all Fees and Emoluments of Office. Previous to the Appointment of a Sheriff—an Officer, termed the Provost Marshall, performed all the duties incident to that Office. The duties of the Provost Marshal were in all respects the same as those of a Sheriff, and he received a Fixed Salary of £91 5s., the remainder of his Income being derived from the Fees and Emoluments of Office received during the time of his holding that Situation, and which he was permitted to retain and apply to that purpose. Mr. Mackaness arrived here in the July of that Year and entered upon the duties of his Office. About the latter end of November, 1825, the then Governor Sir Thomas Brisbane embarked on his return to England, and was succeeded by his present Excellency Governor Darling in the December following. After the arrival of Governor Darling, the Sheriff was called upon, with the other Public Officers collecting the Revenue, to render his Account to the Government. On reference however to Schedules of the Returns made by Mr. Mackaness of his Income in two Successive Years, considerable difference was found to exist: that of One year being stated to amount to £1,091 5s. and in the following to £1,000. The cause of the difference of £91 5s. was accordingly required to be explained. In the interim, however, Mr. Commissary General Wemyss, had paid Mr. Mackaness, the Sum of £91 5s. (the Amount

* *Marginal note.*—He has not only received his salary of £1,000 a year as Sheriff, but the Salary of £91 5s. as Provost Marshal and has retained the Fees besides.

1828.
29 Nov.

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of the Salary received by the Provost Marshal during the existence of that Office) in addition to the Salary of £1,000, which Mr. Mackaness received in his Capacity of Sheriff. The Colonial Secretary, by the direction of the Governor, accordingly sent a Letter to Mr. Mackaness, requiring to be informed by what authority he retained that Sum. This Letter is dated 12th February, 1827, a Copy of which I have the honor of Enclosing. To this, an Answer was returned by Mr. Mackaness, dated 17th February, 1827, referring to a letter addressed by Earl Bathurst to Sir Thos. Brisbane, and dated 25th October, 1825. The same day that Mr. Mackaness's letter was received, another Letter was sent by the Colonial Secretary to Mr. Mackaness, calling for a Copy of Earl Bathurst's Letter. On the 24th February, the Colonial Secretary received a Letter from Mr. Mackaness, correcting an error in his former Letter respecting the date of that addressed by Earl Bathurst to Sir Thomas Brisbane, and stating it to be dated the 22nd January, 1824, and not the 25th October, 1825; but no Copy of the letter was sent as required by the Colonial Secretary. On the 21st May, 1827, the Colonial Secretary sent a letter to Mr. Mackaness, requiring him to pay over to the proper Officer the Amount of the Fines and Fees collected by him as Sheriff for the Quarter ending the 31st March previous. From this period to the February of the following year, no direct Correspondence on this subject seems to have taken place. On the 1st February, 1828, the Colonial Secretary addressed a letter to Mr. Mackaness, a Copy of which I have the honor of Enclosing, in reply to one from Mr. Mackaness of the 23rd January, requesting a warrant for the Sum of £96 5s., which he stated to be due to him on the 1st January, and referred him to the letter sent from the Colonial Office on the 12th February, 1827, before adverted to. On the 26th February, 1828, a Letter was addressed by the Collector of Internal Revenue to the Colonial Secretary, a Copy of which I have the honor of Enclosing, annexing a Copy of a Letter received from Mr. Mackaness, relative to the payment of the sum of £424 17s. 9d., the Balance of Fines and Fees received by him as Sheriff during the Year 1827. Several communications were made to Mr. Mackaness on the same subject from the Colonial Office, and, on the 18th March following, a Letter was addressed by the Colonial Secretary to Mr. Mackaness, a Copy of which I have also the honor of Enclosing. In addition to these Letters, I also gave in Evidence the appointment of Mr. Mackaness as Sheriff, as well as of the Statement of his Accounts for the year 1827, which had been Filed in the Office of the Supreme Court by Mr. Mackaness, and certified by his Affidavit. In those accounts, the sum of £91 5s. was claimed by Mr. Mackaness, as Provost Marshall,* and the *Amount retained* by him out of the Fines and Fees received in his capacity of Sheriff. This power of appropriating the Monies, received by a Public Officer in one capacity, to the payment of a Salary claimed by him in another, is the question which was reserved at the Trial for argument before the Judges, and which I purpose bringing before the Supreme Court during the present Term. The following is a Copy of the special verdict returned by the Assessors:—"The Assessors find a Verdict for the Defendant, subject to the Opinion of the Court upon the following case:—the Defendant was *de facto*

* *Marginal note.*—Mr. Mackaness never received any appointment as Provost Marshal nor ever did duty as such.

1828. 29 Nov.

Suit against J. Mackaness for recovery of fees.

the Provost Marshall of New South Wales, and received a Salary at the rate of £91 5s. per Annum* up to the 31st December, 1826. There being no Evidence of the Government having revoked or annulled the Office of Provost Marshall, the Defendant continued and was such Officer *de facto*, until 31st December, 1827; and, not having received the Salary for the said last mentioned Year which had become due, the Defendant retained that amount out of certain Fees received by him as Sheriff (his said Appointment of Sheriff, being distinct from that of Provost Marshal) and which said Fees the said Defendant had, by an arrangement with His Majesty's Government, agreed to pay and account for to His Majesty's Treasury, in consideration of a Yearly Salary paid to the Defendant as Sheriff instead of such Fees. The assessors therefore leave the above case to the determination of the Court," etc., etc.

As soon as the Judges shall have delivered their Judgment upon the above verdict, as well as on the point reserved for argument, I shall report the result to you for His Excellency's information.

I have, &c.,

JOHN SAMPSON, Solicitor General.

[Sub-enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO MR. J. MACKANESS.

Sir, Colonial Secretary's Office, 12th February, 1827.

Query *re* salary of J. Mackaness.

Observing, on reference to the Schedules furnished by you for the last two Years, that your Salary is returned in the one as £1,091 5s. and in the other as £1,000, I am directed by the Governor to request that you will state for His Excellency's information the cause of the difference of £91 5s., and also what authority there is for paying you that sum. I have, &c.,

ALEXR. MCLEAY.

[Sub-enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MR. J. MACKANESS.

Sir, Colonial Secretary's Office, 1st February, 1828.

Refusal to grant warrant.

In reply to your Letter of the 23rd Ult., requesting a Warrant for the Sum of *£96 5s.*, which you state was due to you on the 1st January, I am directed by His Excellency the Governor to refer you to the communication made to you from this Office on the 12th of February, 1827, and to inform you that the above mentioned amount cannot be paid, unless you can shew that there is sufficient authority for it. I have, &c.,

ALEXR. MCLEAY.

[Sub-enclosure No. 3.]

MR. J. BUSBY TO COLONIAL SECRETARY MACLEAY.

Sir, Internal Revenue Office, 26th February, 1828.

Transmission of letter.

With reference to your Letters of the 21st inst., No. 28/41, and to my report thereon of yesterday's date, I have the honor to annex a Copy of a Letter I have this morning received from Mr.

**Marginal note.*—This Salary of £91 5s. was paid Mr. Mackaness by the Depy. Comy. General by mistake. Mr. M. never was notified as Provost Marshal or received any appointment as such. The Office of Sheriff having been established instead of the Office of Provost Marshall, and the Salary of £1,000 a Year attached to it, being, as his Appointment stated, in lieu of all Fees and Emoluments.

Mackaness, in reply to my application for payment of the Sum of *£424 17s. 9d.*, the Balance of Fees and Fines collected by him as Sheriff during the Year 1827. 1828. 29 Nov.

I have, &c.,
JAMES BUSBY,
Col. Int. Revenue.

[Annexure.]

MR. J. MACKANESS TO MR. J. BUSBY.

Sir, Late Sheriff's Office, 26th February, 1828.

My incidental Expenses incurred as Sheriff up to this day, and which I am entitled to retain out of the Fees of the Office, Amount to *£437 1s. 9d.* On the Accounts sent in to the Auditor's Office, there is therefore a Balance of *£12 4s.* due to me. Statement of accounts by J. Mackaness.

The Attorney's Bills up to the 31st December last amount to *£137 6s. 10d.*; as soon as I have received the amount of them, I will pay over the Balance *£125 12s. 10d.* I am, Sir,
J. MACKANESS.

[Sub-enclosure No. 4.]

COLONIAL SECRETARY MACLEAY TO MR. J. MACKANESS.

Sir. Colonial Secretary's Office, 18th March, 1828.

I am directed by His Excellency the Governor to inform you, with reference to your Letter of the 26th Ult. addressed to Mr. Busby respecting the Settlement of your Accounts with Government, that the Secretary of State, in a Despatch dated 31st October last, has ordered you to be allowed such proper and reasonable Expenses as you actually incurred when travelling on duty, but no other Allowance whatever; and I have therefore the honor to request that you will give in your Accounts to the 31st December in order that they may be Examined. I have, &c., Accounts to be submitted.
ALEXR. MCLEAY.

[Enclosure No. 3.]

[*A copy of this letter, dated 22nd June, 1827, will be found on page 423, volume XIII.*]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Waterloo.)

Sir, Downing Street, 30th Novr., 1828. 30 Nov.

I have received and laid before Secretary Sir George Murray your letter of the 26th of May, requesting to be furnished with instructions as to certain questions of precedence.

The Secretary of State considers the subject to be of very little importance, but, lest any jealousies should arise out of so trifling a matter, he desires me to acquaint you that persons having the rank of Privy Councillors or any higher rank in England, and above them all next after yourself the Chief Justice of the Colony, are to take precedence of the Executive Councillors; that the Puisné Judges are to take precedence next after the Executive Councillors; that persons of the degree of Knighthood or any higher degree, and the Attorney and Solicitor General of the Colony are to take precedence after the Instructions *re* precedence.

1828. 30 Nov. Puisné Judges and before the Legislative Councillors, and that the Legislative Councillors are to take rank of all other persons whatever.

Uniform for members of legislative council. The Members of the Legislative Council are at liberty to wear or not to wear, at their own discretion, the Uniform* mentioned in the Orders to which you refer.

The precedence of the other Officers whom you enumerate appears to the Secretary of State to be a question too trivial to require any decision. I have, &c.,

HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 135, per ship Ellen.)

10 Dec. Sir, Parramatta, 10th December, 1828.

Transmission of papers at request of F. Forbes. I have the honor to forward to you, agreeably to the desire of Chief Justice Forbes as expressed in his Letter herewith enclosed, the accompanying Paper, stated to be an Appendix containing certain Documents referred to in his Letter to the Secretary of State, dated the 30th of September, which Letter was transmitted to you by the last opportunity with my Despatch No. 124 of 8th November last.

I have no observations to make on the cases of Baynes or Earles, the latter of which in particular has been already fully explained.

Missing warrant of execution. I regret that the original Warrant of Execution in the Case of Earles (the last stated in the Appendix) is not forthcoming. But, admitting Mr. Marsden was present, it must be presumed, from the practice of the Bench, that he would not have been permitted, even had he been disposed, to have given an Opinion as to the punishment to be inflicted in a case in which he was himself the Prosecutor. I have, &c.,

RA. DARLING.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 8th December, 1828.

Documents for transmission. I have the honor to enclose an appendix, containing certain documents referred to in my letter to the Secretary of State under date the 30th Septr., and I have to request that your Excellency will cause it to be transmitted by the first conveyance for England, as forming part of my letter.

I have, &c.,

FRANCIS FORBES, Ch. Justice.

[Sub-enclosure.]

[*These appendices will be found on page 431 et seq.*]

* Note 68.

GOVERNOR DARLING TO SIR GEORGE MURRAY. 1828. 11 Dec.

(Despatch No. 136, per ship Ellen; acknowledged by Sir George Murray, 30th July, 1829.)

Sir, Parramatta, 11th December, 1828.

I do myself the honor to forward for your consideration the Report of Mr. Justice Dowling on the case of Matthew Miller, who was tried before the Supreme Court on the 28th of November last and convicted of the Wilful Murder of his Wife; together with a Copy of the Minute of Proceedings of the Exeeutive Council in the case of this Man; and to aequaint you that the Exeeution of the Sentence has, as recommended by the Counеil, been respited until I shall be honored with your Commands on the subject. Transmission of papers *re* trial of M. Miller.

The Counеil did not recommend in this case, as on former oeeasions, that the Sentence should be commuted to Transportation to Norfolk Island, coneeiving as a full Report of the Trial is transmitted agreeably to the orders conveyed to me in Mr. Seeretary Huskisson's Despatch of the 29th of November, 1827, No. 19, that it would be unnecessary to offer an opinion as to the disposal of the Prisoner.

I have, &e.,
RA. DARLING.

[Enclosures.]

[*These voluminous papers have been omitted.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 64, per ship Waterloo.)

Sir, Downing Street, 12 Deeember, 1828. 12 Dec.

I have had the honor to receive your despatch No. 81 of the 29th of May last. Despatch acknowledged.

I approve of the appointment of Major Mitchell to the situation of Surveyor General in the room of the late Mr. Oxley, whose death was reported in your despatch No. 80 of the 28th of May. Major Mitchell's emoluments will of course be plaeed upon the scale sanctioned by my Predecessor in his despatch of the 31st March last. Approval of appointment of T. L. Mitchell.

I have selected Captain Perry of the Staff Corps to suceeed Major Mitchell in the Offiee of Deputy Surveyor General, and, from the personal knowledge I have had of this Officer, I feel assured that his qualifications will be found to be such as to render him highly useful in the Department to whieh he has been thus attached. Appointment of deputy surveyor-general.

1828. 12 Dec. Captain Perry's emoluments will also be upon the scale fixed by Mr. Huskisson in his despatch above alluded to; and he will be entitled to half salary from the date of his embarkation.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 65, per ship Waterloo.)

Sir, Downing Street, 12th Decr., 1828.

Collector of quit rents. I have received your despatch No. 37 of the 15th of March in reply to one which you had received from the late Secretary of State relative to the collection of the Quit Rents, and the Appointment of one of the Assistant Surveyors to the situation of Collector.

Importance of office. It is perfectly clear from the Return annexed to your despatch, that this Collectorship is an Office of much greater trust and responsibility than either Lord Bathurst or Mr. Huskisson imagined would devolve upon the Collector at the time when the arrangement in question was directed.

Approval of proposal by R. Darling. Upon that ground therefore, and not because it has the advantage in point of economy over the arrangement recommended by my Predecessors, am I induced to depart from their decision. But, in yielding to your representations upon this subject, by leaving undisturbed the existing arrangement for the collection of the Internal Revenues, I have deemed it proper to select Mr. William Macpherson to fill the appointment of Collector; whose experience (without meaning to detract from the merits of the Officer on your Staff to whom you have entrusted that duty) would appear to render him better qualified than that Officer possibly can be for undertaking so extensive a charge. And as it is of great importance that the public should be secured from the possibility of loss from any negligence or other misconduct of any Officer entrusted with Balances of public Money, I have deemed it necessary to require such a security from Mr. Macpherson.

Appointment of W. Macpherson as collector.

Security to be given.

Salary from date of arrival. I have assigned to that gentleman a Salary at the rate of £500 per annum, the amount fixed in the Colony; but, as I apprehend the Officer, who is at the present moment performing the duty, has been paid at the full rate, I have informed Mr. Macpherson that he cannot be permitted to receive any part of his emoluments until he shall have reported to you his arrival in the Colony.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING. 1828. 12 Dec.

(Despatch per ship Waterloo; acknowledged by Governor Darling, 20th June, 1829.)

Sir, Downing Street, 12 December, 1828.

I beg to acknowledge the receipt of your letter of the 29th of May transmitting one addressed to the Secretary of State from Mr. John Rodd, late an assistant in the Surveyor General's Department; and I have now the honor of transmitting, by desire of Sir George Murray, for your Information, a Copy of the Letter, which has been sent to Mr. Rodd in answer to his application. Transmission of letter.

I have, &c.,
R. W. HAY.

[Enclosure.]

UNDER SECRETARY HAY TO MR. JOHN RODD.

Sir, Downing Street, 12th December, 1828.

I am directed by Secretary Sir Geo. Murray to acknowledge the receipt of your letter, dated the 26 May last.

Your removal from the situation, which you held in the Surveyor General's Department, having taken place in consequence of your being unequal to discharge any of the duties which devolved upon you in that capacity, the Secretary of State does not consider that you have any claim upon the Public on account of your Services; and, as it appears that you are already in possession of a Grant of land consisting of 2,000 acres, Sir George Murray does not feel warranted in sanctioning your request to receive an additional grant of 5,000 Acres. Refusal of additional land grant for J. Rodd.

I am, &c.,
R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 137, per ship Ellen: acknowledged by Sir George Murray, 29th August, 1829.)

Sir, Parramatta, 12th December, 1828.

I have the honor to acquaint you that the Superintendents of the Stock and Agricultural Establishments at Bathurst, Port Macquarie and Rooty Hill have been discontinued. Discontinuance of superintendents of farms.

The Salaries of the two former were £250 each; and the Salary of the latter £200.

The mismanagement of the Superintendent at Port Macquarie induced me (in consequence of the Report of a Commission which I sent to that place to enquire into the conduct of the several Establishments) to discontinue his services, as, from his want of knowledge and the reduced State of the Settlement, it appeared they could be very well dispensed with. The Agricultural Establishment is now in charge of the Assistant Superintendent, whose Salary remains at £120 a year. Mismanagement of farm at Port Macquarie.

1828.
12 Dec.

Land for clergy and school estates.

Rooty Hill comprizes about *8,138* Acres of Land and will be immediately transferred to the Trustees of the Church and School Corporation, together with other Lands amounting in the whole to about *400,000* Acres, upon which I shall shortly have the honor of specially reporting to you.

Allowance for commissioners of inquiry.

2nd. I have now, Sir, to request your sanction for the Allowance granted to the two Commissioners sent to Port Macquarie above referred to, and another consequent thereon, being charged in the Public Accounts.

The Commissioners on this occasion were allowed One Pound a day each, who were absent on this duty for a period of two Months. The result of their investigation will I have no doubt generally produce very salutary effects. Independent of the discontinuance of the Superintendent of Agrieulture, the person, who had Charge of the Commissariat at that Settlement, has also been removed, and the proceedings of the Commission generally have led to the correction of several abuses.

Results of inquiry.

I beg to state that, on a former occasion, in the year 1826, of a Commission being sent to Port Macquarie, Earl Bathurst was pleased to authorise the Commissioners receiving two Guineas a day each; but I have considered under present circumstances, that one pound would be a sufficient remuneration.

Salary for acting superintendent of police.

Colonel Morisset, the Principal Superintendent of Police, being one of these Commissioners, it became necessary to appoint a Person to carry on his duties in Sydney during his absence, and, in accordance with the rule in such cases, I have granted an Allowance for the performance of these duties equal to half the Salary of the Superintendent of Police, that is, at the rate of *£300* a year; but I found it impossible to deduct the amount of this allowance from Col. Morisset's Salary, as it would have left him without any thing to meet the Expences, which his living at a distant Settlement separate from his Family would necessarily occasion, and which could not be inconsiderable.

I trust you will believe, Sir, that I have regulated these Allowances with every attention to economy, and I request you will be pleased to sanction the arrangement.

Agricultural establishments.

3rd. It may be satisfactory to add that the only Stock or Agricultural Establishments, which now remains, are those of Emu Plains, £250 per An.; Wellington Valley, £250 per An.; Moreton Bay, £200 per An.; Port Macquarie, £120 per An.; Norfolk Island, £100 per An.

The four latter being Penal Settlements, the Cultivation of Grain at these places is indispensable to the maintenance of

the Prisoners kept there, and I do not see how the Establishment at Emu Plains could at present with propriety be discontinued. The Colony in general has suffered extremely from a long and severe drought of two years and a half. Previous to the present Crop, the Government was obliged to send to Van Diemen's Land for 10,000 Bushels of Wheat for the supply of the Penal Settlements; and, the Crops at Moreton Bay and Norfolk Island having since entirely failed, and the Colony generally speaking not having produced one half of a common average Crop, it will be necessary immediately to order a further supply from Van Diemen's Land. It would not therefore I conceive be prudent to discontinue Emu Plains, which, from the nature of the Soil, is particularly favorable for the growth of Grain, until more extensive arrangements are made for its cultivation in those parts of the Colony, where its production may be generally depended on. I have, &c.,

RA. DARLING.

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Necessity for maintenance of establishment at Emu plains.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 66, per ship Waterloo.)

Sir, Downing Street, 13th Decr., 1828. 13 Dec.

The King, having been graciously pleased to take into his consideration the circumstances mentioned in your despatch No. 121 of the 11th Decr., 1827, in reference to the abolition of the Office of Lieutenant Governor* of New South Wales, has been pleased, with the advice of his privy Council, to issue additional instructions, declaring the right of succession to the Government of that Colony (granted by your Commission and standing Instructions† to the Lieutenant Governor) to be henceforward vested in the Military Officer, who may, at the time of your death or absence, be in command of the Forces, and be actually residing in the Territory.

Instructions *re* succession to government of colony.

These additional instructions I have now the honor of enclosing.

My despatch of the 30th of August last, marked Separate, authorizing you to make a provisional Appointment of a Successor to Mr. Forbes, whose retirement from the Executive Council was deemed expedient, will have given you the means of obviating the difficulty, which had occurred, by enabling you to appoint to the Council the individual in succession to the Government, and it has not therefore been considered necessary to make any further provision for that purpose.

Nomination of successor to F. Forbes in executive council.

I am, &c.,

G. MURRAY.

* Note 142. † Note 143.

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[Enclosure.]

GEORGE R.

Instructions vesting succession to government in senior military officer.

ADDITIONAL Instructions to Our Trusty and Wellbeloved Ralph Darling, Esquire, Lieutenant General of Our Forces, Our Captain General and Governor in Chief of Our Territory of New South Wales and its Dependencies, or to the Lieutenant Governor or Commander in Chief of the said Territory for the time being. Given at Our Court at Windsor, the Fifth day of December, 1828, in the Ninth Year of Our Reign.

WHEREAS, by Our Commission under Our Great Seal constituting and appointing you to be Our Captain General and Governor in Chief of Our Territory of New South Wales, bearing date at Westminster the Sixteenth day of July, 1825, in the Sixth Year of Our Reign, We did amongst other things declare Our Will and Pleasure to be that, if, upon your death or absence out of Our said Territory and its Dependencies, there should be no person upon the place commissioned or appointed by Us to be Our Lieutenant Governor of Our said Territory and its Dependencies, or specially appointed by Us to administer the Government, the Executive Councillor, whose name was first placed in Our said Instructions to you, and who should be at the time of your death or absence residing within Our said Territory and its Dependencies, should take upon him the Administration of the Government, and execute Our said Commission and Instructions and the several powers and authorities therein contained in the same manner and to all intents and purposes, as other Our Lieutenant Governor or Commander in Chief should or ought to do in case of your absence until your return, or in all cases until Our further Pleasure be known therein. Provided nevertheless and We did thereby declare Our Will and Pleasure to be that neither Our Chief Justice of Our Supreme Court of New South Wales nor any other Judge of the said Court, who might at any time thereafter be appointed in the manner provided by a certain Act of Parliament, made in the Fourth year of Our Reign, intituled "An Act to provide until the First day of July, 1827, and until the end of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof and for other purposes relating thereto," nor the Archdeacon of New South Wales, should in any case take upon them the Administration of the Government of the said Territory and its Dependencies. And Whereas We have deemed it expedient to make further provision for the administration

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in the cases aforesaid of the Government of Our said Territory and its Dependencies. Now know ye that Our Will and Pleasure is and We do hereby declare, ordain and appoint that, if, upon your death or absence out of Our said Territory and its Dependencies, there be no person upon the place commissioned or appointed by Us to be Our Lieutenant Governor of Our said Territory and its Dependencies, or specially appointed by Us to administer the Government, the Senior Military Officer within Our said Territory and its Dependencies in Command of Our Forces there, and who shall be at the time of your death or absence residing within Our said Territory and its Dependencies, shall take upon him the administration of the Government, and execute Our said Commission and Instructions and the several powers and authorities therein contained, in the same manner and to all intents and purposes as other Our Lieutenant Governor or Commander in Chief should or ought to do in case of your absence until your return, or in all cases until Our further Pleasure be known therein.

Instructions vesting succession to government in senior military officer.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 138. per ship Ellen; acknowledged by Sir George Murray, 22nd June, 1829.)

Sir, Parramatta, 13th December, 1828.

I have the honor to acknowledge the receipt of your Despatch of the 31st of May last, No. 1, directing the removal of the Establishment from Melville Island, which place is to be abandoned, to the Settlement of Fort Wellington in Raffles Bay, and I have the honor to acquaint you that a Vessel was despatched on the 27th November last for the purpose of carrying the above Orders into effect.

Vessel sent to remove settlement from Melville island.

After removing such Individuals and Stores as may be considered useful at Fort Wellington, the Vessel employed on this Service will return to Sydney, bringing the Detachment of Troops from Melville Island, and the Convicts who are not required at the Settlement of Fort Wellington.

I regret it will not be in my power to give effect to your wishes with respect to any material reduction in the number of Vessels employed by the Local Government. One has always been stationed at Melville Island, having been kept exclusively for the immediate Service of that Settlement, and one has lately been sold, the Alligator. But, so long as Fort Wellington is continued and King Georges Sound, the communication with which is both dangerous and tedious, the number of Vessels now employed (Six) cannot be dispensed with. It is only necessary to instance that the Governor Philip, a remarkably fine Vessel,

Necessity for maintenance of government vessels.

1828. 13 Dec. which was sent with supplies to these Settlements in August last, has not yet returned, having been absent four months and a half, a period much longer than the Vessels usually occupy at present in coming out from England.

Ship freighted to Moreton bay. I am again under the necessity of freighting a Ship the "City of Edinburgh" at an Expense of £350 to take Prisoners and Supplies to Moreton Bay, our own Vessels being all employed, though it is only a few months since, in August last, that the Ship Borodino was freighted for a similar purpose.

Military and convicts at Moreton bay. The Prisoners at Moreton Bay, when these arrive who are now about to proceed, will amount to 896, and the Detachment of Troops consists of 100 Men, so that the Numbers to be provided for are considerable, and the Crop of Grain, which promised to be abundant, has I am concerned to say entirely failed.

Failure of harvest at Moreton bay and Norfolk island. The same unfortunate event has occurred at Norfolk Island, and the Expense consequent on this disaster must be considerable. I beg you will be assured that every possible discretion shall be exercised in remedying this evil. I have, &c.,

RA. DARLING.

I ought, Sir, before closing my letter to have requested your sanction for the Expense incurred in freighting the Ship "City of Edinburgh" being charged in the Public Accounts.

R.D.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Waterloo.)

14 Dec. Sir, Downing Street, 14th December, 1828.

Report required *re* J. Hill. An application having been received at this Department for information relative to the fate of an Individual named "John Hill," who is stated to have been employed on the Establishment at Raffles Bay, I am directed by Secretary Sir George Murray to request that you will cause the necessary enquiries to be made respecting this person, and that you will acquaint me with the result, in order that it may be communicated to the party interested in this Enquiry. I have, &c.,

R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 139, per ship Ellen: acknowledged by Sir George Murray, 16th November, 1829.)

15 Dec. Sir, Parramatta, 15th December, 1828.

Transmission of memorial from W. Ogilvie. I have the honor to forward at the desire of Mr. Ogilvie, a Lieut. on the retired list of the Royal Navy, who is established as a Settler in this Colony, a Memorial praying that, in

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consideration of his Services as an Officer in the Navy, the Capital he has expended in the improvement of his land and the manner in which he has exerted himself generally since his arrival here, he may be permitted to retain as a free Grant without the payment of Quit Rent four Thousand Acres of Land, which he was authorised to purchase under the Administration of my predecessor; but which Land has not been paid for.

Request for free grant.

In forwarding Mr. Ogilvie's Memorial, it is incumbent on me to state, and it affords me much satisfaction to do so, that he is a most respectable Man and appears in every respect highly deserving the attention of Government.

Testimony in favour of W. Ogilvie.

I am at the same time bound to observe that a compliance with Mr. Ogilvie's application would be attended with very serious inconvenience, there being several Officers of the Naval and Military Services, who had Settled here previous to the recently established Regulations* for granting land to Officers, who retire from the Service for the purpose of Settling in the Colony.

Possible inconvenience by granting petition.

With respect to Mr. Ogilvie's application, it is necessary to state, if he had retired under the Regulations alluded to, he could only have been allowed an exemption from Quit Rent on 2,560 Acres, being the largest Grant he could have received.

Area of grant under regulations.

1st. Whether the regulations alluded to are to be considered applicable to such Naval and Military Officers as had come out as Settlers, having been placed on the retired List or on Half Pay previous to the publication of the existing Regulations.

Questions submitted for consideration.

2d. Whether *Subalterns* on Half Pay, who had come out as Settlers, and subsequently sold their Half Pay previously to its being known in the Colony that the benefit held out in the regulations were to be extended to Officers of that rank, are to be considered as having a Claim under the General Order, dated the 16th May, 1827.

3rd. Whether Officers, who have retired from Regiments stationed in the Colony for the purpose of becoming Settlers, but who were not acquainted with the Regulations at the time, or who being aware of the Regulations did not state that the object of their retiring was for the purpose of becoming Settlers under the present Regulations, are to be considered as having a Claim to the benefit of these Regulations? The latter query is put in consequence of its being signified in the general Order of the 8th June, 1826, that no Free Grant shall be made to any Officer, who shall not produce satisfactory testimonials from the Commander in Chief's Office of good Conduct and unexceptionable Character.

4th. Whether Officers, who having Settled in the Colony previous to the present Regulations and had obtained land to the

* Note 144.

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amount of their Capital, have any claim to a New Grant in consequence of these Regulations, admitting that the Individuals, alluded to in Query No. 1, are deemed to have a Claim to the benefits subsequently held out; or whether the remission of Quit Rent is to be applied to the Land which they had already received.

Questions submitted for consideration.

Having stated these several heads, I hope I shall be excused, Sir, for requesting your attention to a part of the Regulations which you may perhaps deem deserving reconsideration.

Lands granted to officers according to capital and not rank.

I allude to the circumstance of an Officer of Rank, deriving no benefit from his Services beyond that held out to an Ensign; For example, a Subaltern of twenty years' standing, who possesses £2,000 and had been on Half Pay a considerable portion of that period, would receive 2,560 Acres of Land free of Quit Rent for Life, while a Lieut. Colonel or an Officer even of higher rank, of the same length of Service, who might possess only £1,000, not to take an extreme case, would receive only Half the quantity of Land to which the Ensign would be entitled.

I am aware that the Regulation is in accordance with the general principle of granting Land in proportion to available Capital. But you may perhaps think it deserving consideration whether some greater advantage should not be held out to Officers of the higher Ranks than those enjoyed by the Juniors.

Grants proposed according to rank.

It might perhaps be equitably arranged, with reference to the Claims of the Individuals, in some such manner as the following, "Vizt.":—

To grant Subalterns two Square Miles.

Captains three, and

Field Officers four Square Miles of Land without reference to Capital, and under the Regulations which at present exist with respect to the remission of Quit Rent, according to the period of their Service.

Additional grants according to capital.

I would beg leave further to suggest in the case of the junior Ranks, subalterns and Captains, who possess Capital above the Sum (£1,000) which gives Settlers a Claim to two Square Miles, that they be allowed to receive land in addition to the two Square Miles, as ordinary Settlers, that is, a Subaltern possessing £1,500 might be allowed one Square Mile, paying the usual Quit Rent as a Settler, in addition to the two Square Miles proposed to be granted with reference to his Military Services. If possessing £2,000, he might be allowed a Second Square Mile as a Settler, making *four* altogether.

Thus his Claims both as an Officer and a Capitalist would be satisfied. Being in possession of £1,500 or £2,000, he would

receive the full quantity of land to which his Capital gives him a Claim, and he would at the same time enjoy a remission of Quit Rent, or two Square Miles or 1,280 Acres, according to the length of his Military Services. 1828. 15 Dec. Effect of proposals.

A Captain, possessing £2,000, would receive one Square Mile in addition as a Settler paying the Quit Rent on this as in the case of the Subaltern.

I have, &c.,

Ra. Darling.

P.S.—Should the Scale proposed be considered too high, or likely to Act as an inducement to Officers possessing no capital, to come out on the chance of their being able to turn their Grant to account, the Scale might perhaps be advantageously reduced, and the Grants be made to the following extent, "Vizt.":— Proposed reduction in scale of grants.

Subalterns—*One* Square Mile instead of two.

Captains—*Two,* instead of three.

Field Officers—*Three,* instead of four.

R.D.

[Enclosure.]

The Memorial of William Ogilvie, Lieutenant in the Royal Navy. Memorial of W. Ogilvie soliciting free land grant.

To The Right Honble. The Principal Secretary of State for the Colonies.

Sheweth,

That your Memorialist is an Officer of 34 years standing in His Majesty's Navy, 27 Years of which he has been a Lieutenant, having obtained his promotion to that Rank when Midshipman of the St. George, Lord Nelson's Flag Ship at the Battle of Copenhagen, for his Services in the Boats on that memorable day.

That your Memorialist Emigrated in 1825 with his wife and four Children to New South Wales, and, in conformity with Lord Bathurst's Instructions, had the Grant of 2,000 Acres, then conferred on all Settlers of your Memorialist's Class, made to him by Sir Thomas Brisbane as well as a Reserve for Purchase of 4,000 Acres more, adjoining, to be paid for by Instalments according to a Proclamation then issued.

That, from the unprecedented bad Seasons since your Memorialist's arrival in the Colony and the Total failure of his Wheat and Maize Crops thereby, which have put your Memorialist to the necessity of Purchasing those Artlcles for the support of a large Establishment at the high prices consequent upon their Scarcity, together with the great Expenses incurred by the important and extensive improvements made on the Land, a List of which is subjoined, your Memorialist's means have been so completely exhausted, as to preclude the possibility of paying for the above Reserve, upon which an equal proportion of the Improvements have been made.

Your Memorialist humbly submits that large Tracts of Land have been granted both to Companies and Individuals on the Sole Condition of their investing Capital thereon to the amount of One

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Memorial of W. Ogilvie soliciting free land grant.

Pound Sterling per acre, which your Memorialist has already done, the Improvements and Stock upon his Land amounting in Value to Six thousand Pounds. Your Memorialist therefore most respectfully solicits that, in consideration of his long Services in the Navy, the important Improvements he has made on the Land, the Number of Convicts he has supported, the severe losses he has incurred by the badness of the Seasons, and the Services he has rendered by gratuitously performing all the Duties of Civil Magistrate for the District wherein he resides you will be pleased to confer the before mentioned 4,000 acres of Land upon him as a Grant agreeable to the conditions announced in the Official Circular of His Royal Highness The Lord High Admiral relative to Naval Half Pay Officers settling in New South Wales.

WM. OGILVIE, Lieut., R.N.

New South Wales, 20 July, 1828.

[Sub-enclosure.]

Statement of improvements made by W. Ogilvie.

STATEMENT of Improvements made by Lieut. W. Ogilvie, R.N., on his Grant of Land at Merton, Hunter's River assigned to him in May, 1825.

5½ Miles of 4 and 3 Rail Fence.
150 Acres of Land cleared and Enclosed for Cultivation—80 of which are under Crop.
2 Acres Garden paled in, planted and cultivated.
4 ,, Orchard enclosed and planted.
9 ,, Tobacco ground fenced and cultivated.
Stone House 60 front. Walls up and roofed in.
Barn 60 feet by 20, General Store 50 feet, Butter Dairy, Cheese do, Do Store, All complete permanent substantial Buildings.
Cottage for present Residence and various Offices and temporary Buildings—Seventeen in Number—besides Tan pits, Lime Kilns, etc.

WM. OGILVIE.

We the Undersigned hereby certify to the Correctness of the above Statement—
PETER CUNNINGHAM, Secy., R.N.
JOHN PIKE, J.P.
R. SADLEIR, Lt., R. Navy.

Hunter's River, 20 July, 1828.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 67, per ship Waterloo.)

16 Dec.

Sir, Downing Street, 16 December, 1828.

Seniority of Revd. C. Wilton.

A communication has been received at this Department from the Revd. C. Wilton, in which he states that doubts had arisen with regard to his position on the Clerical Establishment at New South Wales, in consequence of his having proceeded to the Colony unprovided with the usual Commission of Assistant Chaplain. I have therefore to acquaint you that it does not appear to the Secretary of State that Mr. Wilton should lose his rank on the Clerical Establishment on account of that omission, and you will accordingly consider the appointment of this Gentleman as Assistant Chaplain to have taken place from the date of Lord Bathurst's despatch of the 19th of Octr., 1826.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING. 1828. 17 Dec.
(Despatch No. 68, per ship Waterloo.)

Sir, Downing Street, 17 December, 1828.

I have received your despatch No. 63 of the 3rd of April, accompanied by a Report from the Civil Engineer and from the Officer Superintending the Artificers of the Royal Staff Corps respecting the repair of the Military Barracks in the Colony under your Government, and the erection of two Wash-houses. I have now the honor to acquaint you that His Majesty's Government approve of the repairs of the Barracks in question to the extent which may be necessary for the preservation of the Buildings and for the comfort of the Troops, and also of the construction of the two Wash-houses according to the Estimate which you have sent home. His Majesty's Government rely however on your attention to prevent any additional expenses being incurred on this account. I am, &c.,

Approval of repairs to military barracks.

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 69, per ship Waterloo.)

Sir, Downing Street, 18th December, 1828. 18 Dec.

With reference to your despatches of the 11th of March and 10th August, 1827, and to the communications of my Predecessor dated the 11th October, 1827, and 12th February, 1828, I transmit to you the enclosed application from Mr. Dangar relating to certain Lands, of which he was deprived for misconduct in the situation of Assistant Surveyor at New South Wales, and on account of which compensation was directed to be made to him in case it should appear that he had expended any sums upon such lands. There would appear to be some little obscurity as to the particular lands taken from Mr. Dangar on the ground of his having obtained them improperly. From your despatches I collect that the land of which he was dispossessed was the reserve of 1,300 Acres allotted to him during the administration of Sir Thomas Brisbane; but not only would it appear by Mr. Dangar's memorial that he has lost the 1,300 acres, but also 1,700 out of 2,000 *purchased* by him of the Colonial Government about the same period. As Mr. Dangar states that he has paid the first instalment of the purchase money on the 2,000 acres above alluded to, I am of opinion that the Government cannot deprive him of any land, which he may have so acquired, provided the remainder of the purchase money be paid at the regular period agreed upon. If, therefore, any part of the 1,700 acres purchased by Mr. Dangar has been taken from him, you

Application from H. Dangar *re* land.

Uncertainty *re* facts.

Repossession to be given to H. Dangar.

1828. 18 Dec.

Repossession to be given to H. Dangar.

will replace him in possession of the same, unless there should be any circumstances connected with this purchase, which have not been explained to His Majesty's Government and which in your opinion would when explained alter the view which I am now disposed to take of the case. I am, &c.,

G. Murray.

[Enclosure.]

Mr. H. Dangar to Under Secretary Twiss.

Sir, St. Neots, near Liskeard, 15th Novbr., 1828.

I had hoped that your reply to my letter of the 7th June last would have rendered it unnecessary for me to have addressed to you another letter on the subject.

Confirmation of dismissal from office.

I am now bound to consider that my dismissal from office by General Darling is fully confirmed by the Right Honble. Secretary of State, upon which (giving me as it has the most painful reflections) I cannot refrain making comment.

Reasons for suspension of H. Dangar.

General Darling's ground for my suspension* is conveyed in his letter to me of the 29th May, 1827, of which that numbered 2 already in your possession is a copy. The misconduct with which I am charged and which caused my suspension is here stated. First, for "having improperly availed yourself of your public situation to appropriate Lands to yourself and your Brother to the prejudice of private individuals, who appear to have had a prior claim of selection," and secondly, for "acting in contravention of the Rules and Regulations for granting and disposing of Land." These are the grounds of suspension, this is the whole misconduct which General Darling has brought against me.

Reply to charges.

On the first alledged misconduct, if any improper appropriations were made, it was not an act of mine, but that of the Surveyor General, under whose orders every appropriation *was* made; upon perusal of that officer's letter to the local Government upon this charge, of which that in your possession numbered 5 is a copy, and which is the only evidence which can be received, it is obvious that no improper appropriation took place. Since then, as a subordinate officer I was acting under the orders of my superior, and in doing so having met his entire approbation: how can it be alledged that *I* acted improly? and, even had that with which I am charged been true (which was not the case) how could *I* be held responsible, when I acted in perfect accordance with the orders of my superior officer? Surely then my being made a sufferer under this charge must be grievously unjust.

Upon the second charge, I certainly have acted in contravention of an old rule in regard to the holding of Land (which was generally received as obsolete from its being infringed in hundreds of cases) in becoming the purchaser of a grant of Land, before the grantee had previously had possession of it the prescribed period of five Years. I assuredly should not have rendered myself liable to error here, had I not seen numerous cases, where purchases have been made, which made the parties subject to the same contravention of an order, made too by some of the highest officers in the Colony under the Crown, and openly sanctioned by the local Government. I have it in my power to prove when there, that such sales have been sanctioned in persons of rank by the Government; independent of which, the feeling of Government upon this rule is sufficiently

* Note 145.

evinced by Sir Thos. Brisbane sanctioning all preceding acts of the kind in his public order* of Novr. 10th, 1825; and the act with which I am accused took place before the publication of that order. Under these circumstances, I most respectfully beg to put it to his Majesty's Government that in the small error I fell into (if an error it *can* be called), does it demand such a signal punishment? On taking into consideration the many years of arduous services, I had gone through, the testimonials to which I have already had the honor of laying before the Secretary of State No. 24 in copies of documents, would not a caution and reprimand have been more like the characteristic justice and gratitude of the British Government towards her servants? No, my destinies have been less fortunate than to meet with such a consideration. In the person of the Agent† to T. P. McQueen, M.P., I have had an artful and influential adversary, who has not hesitated in the Colony to use every dishonorable and secret means to prejudice me in the estimation of the members of the Colonial Government, which the low cunning of man could invent. That he has here succeeded to an item, there can be no doubt, since by placing censure on my public conduct he anticipated the present result, in regard to the interference which the local Government have made with lands which had been before allotted to me. Upon examination then of the leading facts of my case as here compressed, it is evident that my dismissal has been caused either through some powerfull prejudice or influence received against me, and in that case am *condemned unheard*, or, under the doctrine of *example* for the most trifling offence, have suffered the greatest punishment which could be awarded. I regret that the part of your letter of the 16th Ult. in regard to *Lands* is not sufficiently complete to allow of my conclnding upon it preparatory to my again leaving England for the Colony.

1828. 18 Dec.

Alleged injustice of dismissal.

First, you state "that it was not the wish of His Majesty's Government to deprive you of any lands for which you may have paid, or upon which you may have expended any Capital, upon the faith of any promise held out to you, without your first receiving a reasonable compensation for such expenses." This part of your letter will bear upon what has already taken place, viz., my having been dispossessed of *seventeen* hundred, out of Two Thousand acres, which I had purchased of the Crown during the Government of Sir Thos. Brisbane, and which I was deprived of, although the first instalment £50 was paid upon it (see the Surveyor General's letter No. 9).

Compensation to be given.

I have in this respect been injured to a great extent, since, as it was adjoining other land held by me, I could not now find that extent in any other available part of the Colony that was likely to induce me to purchase at that price. As I now possess only Three Hundred acres out of that purchase, may I beg to ask what compensation His Majesty's Government will make to me for the loss of the seventeen Hundred acres?

Secondly: On General Darling ordering my suspension in office, he directed, in addition to the deprivation of land lastly alluded to, that my holding in Thirteen Hundred acres of land "marked A on the Map," should be subject to the decision of the Secretary of State. This land was ordered to me by Governor Sir Thos. Brisbane in March, 1825, in consideration of meritorious services, and which I was put in possession of by the Surveyor General (see his letter No. 9) in the early part of the year 1826. I have built and

Reference to England of possession of land.

 * Note 146. † Note 147.

1828. 18 Dec. Request for decision by secretary of state.

made considerable improvements upon it, and have been in quiet possession ever since. In your letter to me of the 16th Ult., the Right Honble. Secretary's commands in regard to Land are such, as to give me every confidence (by his refusing to recognise a double punishment, viz., dismissal of office, and a deprivation of that little landed property which I possessed) to hope that in this respect I shall experience his favorable and just consideration; I would moreover beg to add that, should Genl. Darling, by an extraordinary use of the powers with which he is invested, have deprived me of this property, and, in consequence of the justice of His Majesty's Government, they had ordered a compensation to be made to me, I could not have hoped that such could have been made equal to the loss I should have sustained.

Since then, my present holding in this property is made subject to the approval of the Secretary of State; I trust I shall be pardoned for soliciting his reply upon it.

Your letter of the 16 Ultmo. would have met with earlier attention, had I not of late been labouring under severe indisposition.

I have, &c.,
Hy. Dangar.

Sir George Murray to Governor Darling.

(Despatch No. 70, per ship Waterloo.)

19 Dec. Instructions re registry of shipping.

Sir, Downing Street, 19 December, 1828.

I transmit to you herewith the copy of a Minute of the Lords Commissioners of the Treasury, dated the 26th November last, together with a printed form for the Registry of Vessels. You will not fail to observe that their Lordships' observations refer principally to the Island of Ceylon, where, for the reasons stated in their Lordships' Minute, it is not deemed expedient to establish, as in all other places, regular Officers of Customs distinct from the general Civil Establishment of the Island. But, as it is considered advisable that the Commissioners of Customs should receive an annual account of all Vessels registered during the year, and also of all such Vessels as may have been previously registered and are still in existance at the several Ports within your Government, I am to desire that you will with as little delay as possible transmit to the Commissioners of Customs the information desired, according to the printed form enclosed.

I am, &c.,
G. Murray.

[Enclosure No. 1.]

Treasury Minute of the 26th Novr., 1828.

Minute re registry of shipping in Ceylon.

20,168.—Read Report of the Commrs. of Customs, dated the 13th inst., on a letter from Mr. Hay, transmitting copy of a despatch from Sir Edward Barnes, dated Colombo, 4th August, 1826, relative to the Establishment of Officers of Customs in Ceylon.

The Commrs. observe that it appears from the papers that there is little or no intercourse between Ceylon and the British Dominions

except to the Continent of India, and they therefore submit whether it would be expedient to detach the Customs Department from the general Civil Establishment of the Island. 1828. 19 Dec.

They further submit that the Officers, executing the duties of Collectors of Customs in Ceylon, should be empowered to execute the provisions of the Act, 6 Geo. 4, Cap. 110, for registering Vessels, and that the Governors of Ceylon and of all places within the limits of the East India Company's Charter should be required to transmit to them annual Accounts of Vessels registered. Minute *re* registry of shipping in Ceylon.

Acquaint the Commrs. of Customs that, after their Lordships' most attentive consideration of this important subject, they are of opinion that, under the existing state of the Trade of Ceylon, and adverting especially to the very little intercourse at present existing between Ceylon and the British Dominions, as appears from the very limited number of Vessels from Ceylon which entered the Ports of the Kingdom during the last year, it would not be expedient to detach the Custom Department from the general Civil Establishment of the Island at the present period; but that my Lords desire that they will prepare a Clause to be submitted to Parliament in the ensuing Session empowering the Officer executing the Office of Collectors of Duties in any place in the Island of Ceylon, together with the Governor of the Island to make Registry of the Vessels under the provisions of the Act, 6 Geo. 4, Cap. 110, as submitted by them.

[Enclosure No. 2.]

[*This was a parchment form in blank of a "certificate of British registry."*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 71, per ship Waterloo.]

Sir, Downing Street, 20th December, 1828. 20 Dec.

I have received your despatch No. 75 of the 15th of May last, and I have to convey to you the approval of His Majesty's Government of the measures which you have adopted, with regard to certain additions and alterations, therein detailed, which you had found it necessary to make in the Female Factory at Parramatta. Approval of additions to female factory.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Ellen.)

Sir, Parramatta, 20th December, 1828.

I have the honor to acknowledge the Receipt of your Letter of the 25th of June last on the subject of Mr. Gillibrand, formerly Attorney General in Van Diemen's Land, who it appears has intimated to the Secretary of State that his Services were not only made use of by me in a late Visit, which he made to this Colony, but that it was the wish of this Government to give him some Official Appointment, which delicacy alone to Lieut. Governor Arthur had prevented his obtaining. Despatch acknowledged.

1828. 20 Dec. To whom Mr. Gilibrand may allude when he speaks of this Government, it is impossible for me to say; but you may assure Sir George Murray, I never had any desire or intention to avail Myself of Mr. Gellibrand's Services.

Assistance given by J. T. Gellibrand to A. M. Baxter. I have some recollection that Mr. Baxter, the Attorney General, who had recently arrived and was new in Office at the time alluded to, mentioned to me that, having obtained the assistance of Mr. Gellibrand in a case of libel and being satisfied he would not accept a fee personally from him, and not wishing to receive Mr. Gellibrand's Services gratuitously, he requested I would permit him to tender the usual remuneration in the Name of the Government, in which I acquieseed solely in compliance with Mr. Baxter's wishes.

Interview with J. T. Gellibrand. I have only further to state that I never saw Mr. Gellibrand until after this, when he one day called on me at Parramatta, and afterwards complained, as I understood on his return to Sydney, of the manner in which I had received him, observing, I think, that I had not even thanked him for his Services or alluded to the circumstance of the Trial at which he had assisted.

Application for employment by J. T. Gellibrand. On his Return some time after to Van Diemen's Land, he wrote to the Colonial Secretary expressing a wish to be employed by the Government, and pointing out three or four offices, any one of which he would willingly accept. I was naturally surprised at this, as I had never given Mr. Gellibrand any reason to suppose I wished to employ him; and the more so, as none of the Offices alluded to were vacant, and I of course desired Mr. McLeay to inform him civilly that the Government had no means of availing itself of his Services.

This, Sir, is all the knowledge I possess of the desire which this Government has entertained to avail itself, as Mr. Gillibrand supposes, of his Services. In saying this, I have no wish to disparage his professional talents, which I understand are not inconsiderable; But, having been aware of the occurrences at Van Diemen's Land, I should not have thought of employing him here. I may add that he has come twice to this Colony since the period alluded to, and that I have not seen or had any communication with him.

Denial of intended employment.

I have, &c.,

Ra. Darling.

Sir George Murray to Governor Darling.

(Despatch No. 72, per ship Waterloo.)

21 Dec. Sir, Downing Street, 21st December, 1828.

Erection of court-house at Liverpool. I have to acknowledge the receipt of your letter of the 29th of May last No. 83 stating the measures which you had taken for the erection of a Court House at Liverpool in the

Colony of New South Wales. As it appears, from your despatch, that this Building was required, His Majesty's Government have sanctioned the expense which has been incurred on this account. At the same time, I am by no means satisfied from your statement, that the case was so urgent as to render it necessary without previous sanction to enter into a contract for the erection of this Building at the cost of £1,700, which, if delayed until other Works in progress had been completed, might, it appears, have been constructed by the Colonial Government with the aid of Convict Labor at a much less expense. I am, &c.,

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Approval of expenditure.

Criticism of urgency of measure.

G. Murray.

Governor Darling to Under Secretary Twiss.
(Despatch per ship Ellen.)

Sir, Parramatta, 21st December, 1828.

I have the honor to acquaint you, in reference to Mr. Stanley's letter of the 9th of January last relative to the application which Mr. Panton had addressed to the Secretary of State on the subject of his Situation in the Civil Service and respecting a seizure made by him in the year 1824, that Mr. Panton has been continued in the employment of Postmaster at Sydney, under the new arrangements, as notified in my Despatch of the 11th of November last No. 126.

Despatch acknowledged.

Employment of G. Panton as postmaster.

As to his claim respecting the seizure of the Brig Ann, he has been repeatedly and distinctly informed that the Crown Lawyers have given an Opinion that there was no authority in the Colony at the time to make any such seizure. With a view however of rewarding his Zeal on that occasion, I appointed the Collector of Customs and the Auditor to investigate and Report as to the indemnification to which he might be considered as having a Claim for the seizure of a quantity of Brandy landed from that Vessel. But Mr. Panton declined, as will be seen by the enclosed Copy of a letter from the Board, to submit his claim unless the seizure generally of the Vessel and Cargo was to be entered into.

Claim *re* seizure of brig *Ann*.

I have informed him that no further application will be attended to. That, having resigned the situation of Landing Waiter and declined to submit his Claim on Account of the Seizure, he cannot expect that the Government will attend in future to his representations. The fact is, he is an inconsistent impracticable Man, who seems determined to persevere, though he has been repeatedly apprised of the inutility of it.

Refusal to accept further application.

I have, &c.,

Ra. Darling.

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[Enclosure.]

MESSRS. F. ROSSI AND W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

Sir, Custom House, Sydney, 9th October, 1828.

Refusal of G. Panton to submit proofs of claim.

Having, in Prosecution of the directions contained in your Letter No. 235 of the 6th inst., requested Mr. Panton to attend with the Documents and Information necessary to substantiate his claim on account of a seizure of Brandy imported in the Brig Ann in December, 1824, We have the honor to acquaint you that Mr. Panton has this day informed us that his Claim was by no means limited to the seizure of the Brandy, but applied also to that of the Vessel and the whole of the Cargo. On this, we observed to him that, as our Instructions referred exclusively to his Claim for the Seizure of the Brandy, we could not enter into the consideration of any other. Mr. Panton on this stated that in Justice to himself he must decline entering into the grounds of his Claim for the seizure of the Brandy separately, from his general claim on the Vessel and Cargo, and that he would consequently submit a reference to Government on the subject.

Being thus precluded from entering into any proceedings, we are unable to offer any opinion with regard to his claims.

We have, &c.,
F. ROSSI.
WM. LITHGOW.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 73, per ship Waterloo.)

22 Dec.

Approval of establishment for superintendent of convicts and Hyde park barracks.

Sir, Downing Street, 22nd December, 1828.

I have the honor to acknowledge the receipt of your despatches of the 28th March and the 10th of May last, the first reporting certain arrangements, which you had found it necessary to make, with respect to the Establishment of the Principal Superintendant of Convicts, the second, relating to a scale of Salaries and gratuities, which have been established for the remuneration of the persons specially employed in the charge of the Prisoners at Hyde Park Barracks.

I have to acquaint you in answer that His Majesty's Government approve of those arrangements and of the salaries and gratuities allotted to the several persons alluded to, whose remuneration appears to be reasonable and not more than necessary to induce a faithful discharge of their duty. I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Ellen; acknowledged by Sir George Murray, 28th August, 1829.)

Sir, Parramatta, 22nd December, 1828.

I do myself the honor to acquaint you, in reference to my Despateh of the 4th of September last marked "Separate," that

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Lands granted as marriage portions.

I have authorised the Misses Wylde and Blachford receiving a Reserve of two Square Miles of Land each on their Marriage, subject to His Majesty's Confirmation.

Miss Wylde is the Daughter of the Chief Justice at the Cape of Good Hope, who was formerly a Judge here, and is married to a Mr. Palmer, son of the oldest Resident in the Colony, who came out in the Situation of Commissary with Governor Philip.

Miss Blachford is Sister to Mrs. Cox, the Wife of the second Magistrate in point of seniority in the Territory, and is married to a very respectable professional Gentleman of the name of Beddek, who arrived here last Year.

Having, in my Despatch above referred to, acquainted you with the Grounds on which I proposed that these Grants should be made, I shall not take up your time by adding any thing further at present, than my persuasion that the measure will, in this Community, be attended with many beneficial consequences, which I presume it cannot be necessary to enumerate here.

I have, &c.,

Ra. Darling.

Sir George Murray to Governor Darling.

(Despatch No. 74, per ship Waterloo.)

Sir, Downing Street, 23rd December, 1828. 23 Dec.

Appointment of J. Nicholson as assistant surveyor.

With reference to my despatch No. 57 of the 26th ultimo, I have the honor to acquaint you that I have appointed Mr. John Nicholson to be an Assistant Surveyor in the Colony under your Government; and you will, therefore, issue to him a Salary at the rate fixed by my Predecessor's despatch No. 19 of the 31st March, 1828; to one moiety of which he will be entitled from the date of his embarkation.

I herewith transmit to you the testimonials, which I have received to Mr. Nicholson's professional abilities, and from which I am induced to believe that he will be found fully capable of executing the duties attached to his situation, and of making himself useful in every branch of Engineering, should his services be required in that capacity.

I am, &c.,

G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 75, per ship Waterloo.)

Sir, Downing Street, 24th December, 1828. 24 Dec.

Appointment of G. Hayward and J. Hill.

With reference to my despatch No. 74 of the 23rd instant, I have the honor to acquaint you that I have appointed Mr. George Hayward to be an Assistant Surveyor and Mr. John Hill

1828. 24 Dec. Appointment of G. Hayward and J. Hill.

to be a Draftsman upon the Establishment of the Colony under your Government, and you will, therefore, issue to them their respective Salaries at the rate fixed by my Predecessor's despatch No. 19 of the 31st of March last. They will each be entitled to one moiety of their Salaries from the date of their embarkation.

I am, &c.,
G. Murray.

Under Secretary Hay to Governor Darling.
(Despatch per ship Waterloo.)

Sir, Downing Street, 24th Decr., 1828.

Instructions *re* sale of commission by W. Dumaresq.

With reference to the letter, which was addressed to you on the 23rd of September last, notifying that Captain Dumaresq had received permission to dispose of his Commission for the purpose of settling in New South Wales, I am directed to transmit to you the enclosed copy of a communication from the Secretary to the General Commanding in Chief, relative to the case of that Officer; and I am to acquaint you that, under the circumstances stated by Lord FitzRoy Somerset, Sir George Murray thinks it but reasonable that Captain Dumaresq should receive the benefit of the nine months wanting to complete the period of his twenty years' service, and you will accordingly consider yourself authorized to make to him a Grant upon the same terms as he would have been entitled to have received, if he had actually served that period.

I am, &c.,
R. W. Hay.

[Enclosure.]

Lord Fitzroy Somerset to Under Secretary Hay.

Sir, Horse Guards, 13th Decr., 1828.

Concessions to W. Dumaresq on retiring from army.

The period at which it was made known to the General Commanding in Chief that Captain Dumaresq of the Royal Staff Corps was disposed to retire from the Army by the sale of his Commission for the purpose of settling in New South Wales, having been precisely that at which the Secretary of State intimated to His Lordship that the Services of the Corps stationed in that Colony were no longer required; and, it having been determined that the Officers of that Company should not be placed on half pay, but should be seconded on the Regiment, to fall into Vacancies as they might occur, Lord Hill thought himself at liberty to relieve the Publick of the Charge of the full pay of a Captain of the Royal Staff Corps by at once acting upon the wish expressed by Captain Dumaresq's Friends, without waiting for further reference to that Officer.

The General Commanding In Chief is concerned to find that his resolution is likely to operate to the injury of Mr. Dumaresq, who appears to have retired nine months before he had compleated Twenty Years' service, and who, consequently, is considered not to be entitled to the same advantages as a Settler, as if he had actually

served that period. Lord Hill, however, hopes that, upon a consideration of these circumstances, Sir George Murray may be induced to view his case favourably, more particularly as he will probably have continued in charge of this Company until after the present time. 1828. 24 Dec.

I have, &c.,
FitzRoy Somerset.

Under Secretary Twiss to Governor Darling.

(Despatch per ship Waterloo.)

Sir, Downing Street, 25th December, 1828. 25 Dec.

I am directed by Secretary Sir George Murray to transmit herewith for your information the copy of an application received from Mr. Gregory Blaxland. Perceiving, by your despatch No. 66 of April last, that the attention of the Settlers has been very generally directed towards raising within the Colony the article of Tobacco, and that considerable success has attended their exertions in that respect, Sir George Murray has not deemed it advisable to afford any particular encouragement to Mr. Blaxland with a view to that object. But, as in the answer, which has been returned to his application, he has been informed that it would be forwarded for your report, I am to request that you will be good enough to favour Sir George Murray with your opinion on the merits of Mr. Blaxland's proposition and particularly whether the land for which he has applied is so completely useless for all purposes of general cultivation as Mr. Blaxland has represented. Application from G. Blaxland. Refusal of request.

I have, &c.,
Horace Twiss.

[Enclosure.]

The Memorial of Gregory Blaxland of New South Wales. Memorial from G. Blaxland soliciting land grant for cultivation of tobacco.

To the Right Honorable Lieutenant General Sir George Murray, G.C.B., His Majesty's principal Secretary of State for the Colonies, etc., etc., etc.

Most respectfully sheweth,

That your Memorialist requested encouragement to enable him to introduce the Culture of Tobacco into the Colony by Memorial, dated 1st of July, 1827, which request was not granted because the encouragement requested was considered too great an indulgence to any Individual, notwithstanding it is submitted that the prosperity of Trade may be traced in most instances to similar causes; and Memorialist further most respectfully submits that, although his request in the first instance was not complied with, that, as the advantage that would be derived to the Colony by such a measure being carried into effect, is still obvious, he is induced to make another request on the same subject and to submit, as preparatory to it, the following observations on the Land of the Colony, which are more fully explained in an accompanying Paper:—

That there is a considerable extent of land of superior quality at no great distance from Sydney still ungranted, because it is not eligible under existing circumstances either for the cultivation of

1828. 25 Dec.

Memorial from G. Blaxland soliciting land grant for cultivation of tobacco.

Grain (more particularly as Wheat is found by experience not to be productive upon it), or the grazing of stock from the circumstance of its being heavily timbered and also covered with an almost impenetrable growth of brush wood and wild vines beneath the Timber; for grazing it offers no resource, and the usual price of grain does not offer any prospect of adequate remuneration for the heavy expense the clearing would require, for which reason it is never likely to be occupied until more valuable Articles of Culture are introduced such as will repay the heavy outlay of Capital that will attend the clearing of it.

Memorialist, having made such preliminary observations as he trusts will be considered worthy of attention, has to request that he may have granted to him forty thousand Acres of such land on nearly similar terms as Land has been granted to the Australian Company, or to Individuals generally, the only material difference he requests is that he may be immediately empowered to grant Leases for seven or five years at his option subject to the usual Clauses of clearing, improving and occupation, which Leases will of course be invalid (and Memorialist the only sufferer) in the event of his nonperformance of his agreement with the Government previous to the expiration of the term fixed for the Grant being confirmed to him.

For further explanation, Memorialist begs to refer to the accompanying paper and Your Memorialist will ever pray,

GREGORY BLAXLAND.

75, Old Broad Street, 10th Decr., 1828.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 142, per ship Ellen.)

27 Dec.

Insufficiency of instructions *re* land grant to A.A. company.

Sir, Parramatta, 27th December, 1828.

In acknowledging the receipt of your Despatch of the 31st of July last, No. 18, I beg to observe that I never before understood that the 500 Acres of land, which the Company was to receive at the Coal River under the authority of Earl Bathurst's Despatch, dated the 26th of July, 1826, No. 51, was intended to include the Mines at Newcastle. I had supposed that the intention of leasing these Mines to the Company had been abandoned, from an idea that the monopoly of Coals might prove injurious to the public, never having been informed, previous to the Receipt of your Despatch, that any difficulty had arisen with respect to leasing them. I shall beg leave to refer more particularly to the Despatches which I had the honor to receive from Earl Bathurst on this subject, and shall do so in the order they were received, so as to explain more clearly the view I had taken of the matter, and to Shew that there was no intention on my part to contravene the arrangements of His Majesty's Government, or to counteract its intention as far as I was made acquainted with them.

2d. The first Despatch, to which I shall refer, is that of the 18th of May, 1825, No. 31, which contains general Instructions

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with respect to the Grant of Land to be made to the Company, but does not allude in the most remote manner to the Coal Mines. It directs indeed that the Company's Agent may be permitted to purchase 2,000 Acres of Land "on the Banks of the Coal River, for the erection of Quays and other Buildings, where Cattle and other Articles may be Shipped or Landed, or receive temporary Shelter." I have only to observe on this that the Company's Agent never made any application, that I am aware of, to be allowed to purchase Land on the Coal River or elsewhere, or it would of course have been complied with under the orders contained in Earl Bathurst's Despatch, to which I now immediately refer. In fact, the occupancy of Port Stephen, which is perhaps one of the most secure and commodious Harbours on the Coast, did away the necessity of their obtaining land at the Coal River for any of the purposes pointed out in the Despatch, and the Agent appears accordingly to have confined himself to the Spot where the Company intended to take their Grant.

Instructions *re* permission for A.A. company to purchase land on Hunter river.

3rd. Earl Bathurst's Despatch, dated the 29th of April, 1826, No. 36, transmits for my information a Copy of the terms upon which His Majesty's Government had consented to grant to the Company a Lease of the Coal Mines at Newcastle, and signifies that the Instrument, by which the Mines were to be assigned, would be forwarded to me as soon as completed. The Instrument alluded to was never received by me, nor was I informed that a difficulty had arisen, as is stated in your Despatch of the 31st of July last, as to the Company holding a Lease of the Mines; consequently I took no Steps on the subject.

Proposed lease of coal-mines.

4th. In the month of February, 1826, I wrote to Mr. Hay, Under Secretary of State, pointing out the inconvenience to which the Public had been subjected in consequence of an agreement which the local Government had entered into with Mr. Winder for supplying him with Coals.

Objections to agreement with T. W. M. Winder.

5th. Earl Bathurst addressed two Letters to me under date of the 26th of July, 1826, One numbered "51," the other marked "Separate," on the Subject of my communication to Mr. Hay. In his Lordship's Despatch, No. 51, above referred to, I am informed that, although it is not intended the Company should have a Monopoly of the Coal Mines, there would be no objection to their Agent taking possession of a tract of land not exceeding 500 Acres, in such Situation as, with the advice of the Council, I might select. In his Lordship's Despatch marked "Separate" of the same date as that Numbered 51, his Lordship adverts to the Instructions contained in the latter Despatch, "with respect to the selection of a tract of land to be assigned to the Australian Company, at or in the vicinity of the Coal River"; directing, if

Instructions *re* land for A.A. company on Hunter river.

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Instructions *re* land for A.A. company on Hunter river.

the Company should not already have been placed in possession of the land, which my predecessor was directed to assign to them on the Banks of the Coal River; that, in carrying this measure into effect, "care may be had that the public interests be not prejudiced by allowing the Company to take possession of more than a fair proportion of the most valuable land."

Proposed selection of land by company's agent.

6th. In carrying these Instructions into effect, I thought I could not do it in a Manner more satisfactory to the Company than by permitting Mr. Henderson, the person whom they had sent out, to search for land eligible for the purpose required, intending when the Situation should have been reported, to have consulted the Council, as directed by my Instructions, as to the expediency of delivering the land so selected over to the Company. But I never was informed, that I recollect, of his proceedings; nor did I know that the undertaking had been finally abandoned, until an application was made to me lately by Mr. Henderson, who then informed me his engagement with the Company had terminated.

Report by R. Darling.

7th. I here beg leave, Sir, to refer you to my Despatch of the 19th of March last, No. 40, at which time I felt it necessary from the delay that had taken place in carrying the Instructions I had received into effect, to inform your predecessor of the Actual State of the matter. So far from having acted in any manner hostile to the interests of the Company, it will be seen, on a revision of the Instructions I received, if there was any deviation from those instructions on my part, that the deviation was in favour of the Company, inasmuch as, having been directed to select the land myself, I permitted the Company's Agent to search in the first instance for the spot, which, as a person experienced in these matters, he might think best suited to the purposes in view.

Concessions in favour of company.

8th. I do myself the honor to enclose for your information two sketches, "Vizt.," No. 1 of the Town of Newcastle, and No. 2 shewing the lands in the neighbourhood of the Town. It will be seen that the Coal Pits are in fact immediately in the Town and on the Bank of the River, and that, by giving the Company even 500 acres, so as to include the Mines according to the Orders contained in your Despatch, the greater part of the Town will be cut off from the River except by the Streets leading to the Wharf.

Position of coal-mines at Newcastle.

Land reserved near Newcastle.

9th. Sketch No. 2 shews the Vacant land in the neighbourhood, which has hitherto been reserved for the Town, but it appears sufficiently extensive to give the Company such land as they may require.

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10th. It now, Sir, only remains for me to assure you that, in pursuance of the Orders contained in your Despatch, which I am directed to consider as definitive, no time shall be lost in putting the Australian Agricultural Company in possession of such land to the extent of 2,000 Acres, including the Coal Mines at Newcastle, as the Committee may be desirous of receiving. Possession of land to be given to company.

I have, &c.,

Ra. Darling.

[Enclosures.]

[*Copies of these plans will be found in the volume of charts and plans.*]

Governor Darling to Sir George Murray.

(Despatch marked "Separate," per ship Ellen.)

Sir, Parramatta, 27th December, 1828.

I do myself the honor, in reference to my Despatch of this date No. 142, on the subject of the Orders I have now received to place the Australian Agricultural Company in possession of the Coal Mines at Newcastle, to transmit for your information Copy of a Letter, which I addressed to the Committee, on the receipt of your Despatch of the 31st July, No. 18, being desirous of ascertaining whether any representations had been made from hence, to induce the Company to beleive that I was opposed to their wishes in regard to establishing Coal Mines. Correspondence with committee of A.A. company.

2. I beg also to forward the Copy of a Letter and of its Enclosure, which I have received from Doctor Bowman in the name of the Committee, in reply to my Letter; and I shall take the liberty of making the necessary observations on such of the Passages as appear to require explanation.

3. It will be seen on reference to the Copy of the Letter from the Committee to the Directors, dated the 26th May, 1827 (Enclosure No. 2), that the Committee was informed by me that they should receive "every reasonable facility in establishing Mines at Hunter's River, or in such other Situation as Mr. Henderson might select for the purpose," etc. Facilities granted by R. Darling.

4. It is then observed that "by this conversation and other indirect intimations that reached us, as well as from a subsequent enquiry whether the Company would not dispose of one of the Steam Engines, we concluded that His Excellency had determined to continue the Newcastle Mines." Conclusions drawn by company.

5. It is almost unnecessary to remark on this passage, as I have already shewn that I was not authorised to transfer the Mines to the Company, and I only do so in order to state, that I never authorised any Person to enquire whether the Company Reply by R. Darling.

1828. 27 Dec. would dispose of the Steam Engines, and further that I never had any intention of purchasing one.

Offer of mining apparatus to government. 6. I recollect, however, a Paper having been brought to me, marked on the back as an "Invoice," I think, of Mining Apparatus which the Company had sent out, being told, as well as I recollect, that the cost was about £10,000; on which occasion I distinctly understood it had been sent to me for the purpose of ascertaining whether I would take the Articles on account of Government.

7. The conversation, alluded to in the subsequent Paragraph to that to which I have just replied, was without my concurrence or privity; and I think the Committee could not have attached much importance to it, or, knowing my habits of business, they would no doubt have made a point of ascertaining in some more formal manner what my intentions were. As to engaging Mr. Henderson, I never could have thought of it, Mr. Busby, who I beleive is a very superior Mineral Surveyor, being already in the employment of Government.

No intention to employ company's expert.

Intentions of company. 8. It is then stated that the Committee had "come to a determination to make such a proposition to the Government," meaning, I conclude, that it should take Mr. Henderson and the Establishment from off the Company's Hands. But it appears, by the Extract of the 9th November, 1827, annexed to the former, that no direct communication had been made to me upon the subject. For my own part, I laid it down as a Rule, on arriving here, not to attend to desultory Conversations in the transaction of public Business, and a Government Notice was published to apprise Persons, wishing to have a personal interview with me, that, to insure attention to their Applications, it would be necessary to bring with them a Memorandum, stating the object and particulars thereof.

Methods of R. Darling in transacting business.

Reasons for writing despatch. 9. I ought to apologise, Sir, for troubling you with this Letter, which I have been induced to do, although the matter is not essentially connected with the subject of my Despatch No. 142, as it will put you in full possession of every proceeding relating to the Coal Mines and the nature of the Instructions, which had been addressed to me on this subject, but which I apprehend, from recent occurrences, were not adverted to at the moment of preparing the Orders I have lately received. I have, &c.,

RA. DARLING.

[Enclosure No. 1a.]

GOVERNOR DARLING TO THE COMMITTEE* OF THE A.A. COMPANY.

Gentlemen, Parramatta, 27th December, 1828.

Having received a Despatch from the Secretary of State, by which I am led to understand that some Representation has been

* Note 113.

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made from hence, on the part of the Australian Agricultural Company, that this Government had withheld from the Company possession of five Hundred Acres of Land, which it was intended they should have received on the Coal River, I request to be informed whether the Committee has made any Representation to the Company on this subject, and that you will favor me with a Copy of any such Communication, in order that I may be the better enabled to put His Majesty's Government in full possession of the facts of the case.

Request for copy of report made to directors of company.

Although Mr. Henderson was employed for a considerable time in searching for Ground eligible for the purposes of the Company, and I recollect having frequently spoken to Mr. MacArthur on the subject, I am not aware that any Representation was made to the local Government of the result of Mr. Henderson's exertions, nor did I know that the Committee had finally abandoned the Undertaking, until Mr. Henderson informed me some time since that his Engagements with the Company had ceased. If, notwithstanding any Communication was made to the local Government that the Company required any Land at the Coal River or elsewhere to be given up to them, or that having failed to find Land which would answer their purpose, they had relinquished the intention of making further search, I request you will furnish me with a Copy thereof, as I have no recollection of any such representation, and cannot understand how it could possibly have escaped me, as I had been waiting for the necessary Communication from you, until I received the information from Mr. Henderson above stated, to enable me to carry the Instructions of His Majesty's Govt. on this subject into effect.

Ignorance of intentions of company.

I have, &c.,
Ra. Darling.

[Enclosure No. 1b.]

Governor Darling to the Committee of the A.A. Company.

Gentlemen. Government House, 27th December, 1828.

Having received Orders from The Secretary of State to put the Australian Agricultural Company in possession of a tract of Land to the extent of 2,000 Acres including the Coal Mines at Newcastle, should the Company be desirous of receiving the Mines or the Land above mentioned, I request to be informed of the wishes of the Company in this respect, in order that the arrangements necessary to carrying the Orders of His Majesty's Government into effect may be made with as little delay as possible.

Request for communication *re* land grant and coal-mines.

I have, &c.,
Ra. Darling.

[Enclosure No. 2.]

Mr. J. Bowman to Governor Darling.

Sir. Sydney, 29 Decr., 1828.

In the absence of the other Members of the Committee of the Australian Agricultural Company, I have the honor to acknowledge the receipt of your Excellency's letter of the 27th inst., requiring a Copy of such communications, as may have been made to the Directors in England relative to the Coal Mines in this Colony. I now beg leave to enclose Extracts of letters from the Committee on that subject, which I hope are sufficient to afford the information required by your Excellency.

Transmission of extracts of reports to directors.

I have, &c.,
J. Bowman.

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[Sub-enclosure No. 1.]

Extract from a letter from the Committee of Management of the Australian Agricultural Company to the Governor and Deputy Governor, dated 17th May, 1827.

Absence of coal measures at Port Stephens.

"The only disappointment we are aware of is with respect to Coals, favorable expectations of working which in the immediate vicinity of Port Stephens were at one time entertained. Mr. Henderson however and Mr. Busby both concur in opinion that there is no indication whatever of Coal formation in that Neighbourhood. The vein discovered by Mr. Dawson near the Manning River is at too great a distance to be advantageously worked, even if that stream discharged itself into a good Harbour, which unfortunately is not the case, a Bar of Rocks extending across its entrance and rendering it difficult to access even for Boats." J.B.

[Sub-enclosure No. 2.]

Messrs. J. Macarthur and J. Bowman to the Governor and Deputy-Governor of the A.A. Company.

Gentlemen, Sydney, 26th May, 1827.

Transmission of report on coal-fields.

We transmit herewith a Copy of Mr. Henderson's report on the Coal Fields at Newcastle, and relative to the probability of finding Coal on the Shores of this Harbour in the Neighbourhood of Parramatta.

Possible competition in production of coal.

Previously to the arrival of the Australia, our expectations of establishing an Export Trade in Coals had been much weakened by intelligence that a rich seam of that Mineral had been discovered on the Banks of the Ganges. This is in some degree confirmed by Mr. Brickwood, and, when united to the probability of Coal being found in abundance at the New Settlement now forming upon the Western Coast of this Island, it appeared to us a most hazardous experiment to commence upon the very expensive operations of mining, without a probability, at least, that we should not be competed with in the Home Market by so powerful a rival as the Local Government.

Interview with R. Darling *re* coal-mines at Newcastle.

The Committee accordingly waited upon Governor Darling, in Company with Mr. Dawson and Mr. Henderson, previously to the latter Gentleman setting out for Newcastle, when His Excellency assured us we should have every reasonable facility in establishing the Mines at Hunter's River, or in such other Situation as Mr. Henderson might select for the purpose; but that he could not say what would be the ultimate decision of Government relative to the present Mines, until he received a specific proposition from the Company, further than that it was a subject left entirely open to him by Earl Bathurst, and that he certainly did not at present feel any disposition to discontinue the Government Mines; but that Mr. Henderson might inspect them, and obtain such information as he wished for from the Person now conducting them.

Conclusions drawn by committee.

By this conversation and other indirect intimations that reached us, as well as from a subsequent enquiry whether the Company would not dispose of one of the Steam Engines, we concluded that His Excellency had determined to continue the Newcastle Mines.

The Committee in consequence consulted with Mr. Macarthur, Mr. Oxley and other intelligent Proprietors, who were decidedly of opinion (in unison with our own) that there was no chance of

opening a Mine at Hunter's River with any prospect of success; but that in order to give time for the arrival of the further Instructions, which Mr. Brickwood leads us to expect from you upon the subject, as well as to ascertain the views of the Colonial Government more distinctly, it would be advisable to employ Mr. Henderson in an examination of the Newcastle Coal Fields and of the Shores of the Parramatta River, where, from the appearance of the Country, he was of opinion there was every probability that Coal might be found. We had two additional reasons for instituting the latter Survey: first that, if Coal should be found in this Harbour in a Situation available to the views of the Company, we should have an advantage in the greater facility of access to the Home Market: Secondly that, during the process of boring, etc., we might obtain such an insight of the mode of conducting Mining operations, and of the character and conduct of the operative Persons, as to enable us to arrive at some conclusion as to the probability of Mines being carried on under present circumstances with advantage or the reverse.

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Survey of Newcastle coal-fields and shores of Parramatta river.

With regard to the first point, upon an attentive perusal of Mr. Brickwood's Letters, and of the Charter, we think it more than doubtful whether the Company could legally avail themselves of any Coal Seams upon the Shores of Port Stephens, the property of the Land being already vested in Private Individuals by Grant from the Crown; at all events, it is evident that no Capital so embarked could be considered as coming under the description of Expenditure, which confers the privilege of Sale by the Company of a portion of their Lands. This in itself, without reference to the question of legal right to work Mines so situated, is an objection that nothing but the securest prospects of great immediate profit could justify our setting aside.

Legal points raised re coal-mining.

Upon the second point, we have no hesitation in giving it as our decided opinion, founded upon the observations we have made, that the opening a Coal Mine under existing circumstances would be attended with an enormous outlay of Capital and no corresponding return.

Finances of coal-mining.

Our expectations of further Instructions from you have not been realised; but we have been enabled to ascertain the views of Government with more certainty, an Officer of high Rank in the Local Administration having assured us that Government could not give up their Mines at Newcastle, until the Company had established their's, without exposing themselves to the imputation of placing a monopoly in the hands of the Company; and, in reply to our enquiries, he said that it was his opinion that, in the event of an offer to transfer one of the Steam Engines and other necessary apparatus together with the Services of Mr. Henderson and the other Miners to Government, it would be favorably received, and that he did not think a Company could at present carry on a Mining Adventure with advantage in this Colony under any circumstances, but certainly not in opposition to other Competitors.

Alleged official attitude of government.

After giving the subject every possible consideration and obtaining the best advice in our power, we have come to a determination to make such a proposition to the Government.

Proposals to be made by committee.

In the first instance, it will of course be necessary to communicate with Mr. Henderson in order to ascertain whether he will be willing to engage with the Government, and upon what terms; we do not anticipate any objection upon his part; and in justice to him we

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must here observe that he has uniformly stated to the Committee his opinion that the Company were premature in attempting the Establishment of Mines, unless there were sources of Consumption of which he was not aware; for that the population of the Towns of Sydney and Parramatta (not exceeding 15,000 Souls at the outside, of which one third at least may be considered as dependent upon Government) could not consume a sufficient Quantity of Coal to repay the Expense and hazard of such an undertaking, even if the Company were in sole possession of the Market.

Objections of expert to coal-mining by government.

Should we be enabled to carry into effect an arrangement of this nature with the Government, the Company will be relieved from all further claims on the part of Mr. Henderson and the Miners; and there is reason to hope that the other Steam Engine, and whatever else may remain, may be disposed of so advantageously as to enable us to wind up the Account without any great loss. But at all events we are come to a determination to break up the Establishment under an impression that it cannot be conducted with advantage at present, and that its continuance can only occasion encrease of trouble with encreasing loss and consequent disappointment.

Intention to abandon coal-mining.

We are, however, aware of the responsibility we are thus taking upon ourselves; and we trust this alone will be sufficient to convince the Proprietors in general of our being actuated by no other motives than a desire to promote, as far as we are able, the interests of the Company.

We have, &c.,
JAS. MACARTHUR.
JAS. BOWMAN.

[Sub-enclosure No. 3.]

EXTRACT from a Letter from the Committee, addressed to the Governor and Deputy Governor and Directors of the Australian Agricultural Company, dated 9th November, 1827.

Arrangements for closing mining adventure.

"WE regret to say that it has not yet been in our power to close the Mining Adventure owing to the impossibility of bringing the Steam Engine Boilers from Port Stephens by the Lambton; they are to be conveyed to Sydney by the Waterloo on her return, and we shall then take Immediate measures for winding up this unsuccessful adventure with as little loss as possible.

"No direct communication has been made to His Excellency the Governor upon the subject of a transfer of part of the Establishment to the Colonial Government; but we are less sanguine than we were of effecting an advantageous arrangement, and we very much doubt whether any Situation will be provided for Mr. Henderson in the Public Mines." J.B.

[Sub-enclosure No. 4.]

EXTRACT from the Minutes of the Committee of the Australian Agricultural Company, dated 27th November, 1827.

Refusal of offer by government

"THE Committee then, attended by Mr. Barton, proceeded to the Office of the Colonial Secretary In pursuance of the Resolution before expressed.

"The Committee stated to Mr. McLeay the object of their visit, and the Colonial Secretary finally replied that he did not see the probability of the Government requiring the Services of any part of the Coal Establishment or of the Machinery originally intended to be applied by the Company in working the Coal Mines at Newcastle." J.B.

GOVERNOR DARLING TO SIR GEORGE MURRAY. 1828. 28 Dec.
(Despatch No. 143, per ship Ellen.)

Sir, Parramatta, 28th December, 1828.

Having had the honor of addressing a Special Despatch to you, No. 142, on the subject of the Coal Mines which I have been directed to deliver over to the Australian Agricultural Company, I now beg leave to draw your attention to the subject of the Company's Grant generally, and to refer you more particularly to my public letter of the 30th of August last to the Under Secretary of State, Mr. Hay, reporting that Mr. McArthur, who had assumed the Superintendence of the Company's affairs on Mr. Dawson's Suspension, had declined receiving formal possession of the land to be granted to the Company. It was not in my power, when I wrote, to forward a Copy of a letter which I had received from Mr. McArthur to this effect, but I now beg leave to do so.

Report *re* land grants for A.A. company.

Refusal of J. Macarthur to take possession.

2nd. It will be seen by the Copy of the Report (dated the 9th of January, 1828), of the Surveyor General and the Company's Agent, which accompanied my letter to Mr. Hay, that all the necessary preliminaries had been observed and the final delivery of the land to the Company had been delayed from the want of a convenient opportunity alone of carrying it into effect with the necessary formalities.

Fulfilment of all preliminaries.

3rd. I shall only further observe that the land, described in the Report* of the Surveyor General and the Company's Agent (the persons duly authorised to determine as to its eligibility, quality, etc.), has long been in possession of the Company, and that it must have been considered as the actual property of the Company, though not formally delivered over, is proved by the fact of several Buildings having been erected in different parts of the Settlement and various improvements made at considerable Expense for the accommodation of the Company's Establishments. It might be asked without entering further into the question in this place, would the Committee here have sanctioned these Expences, if they did not consider the land selected as the property of the Company?

Land considered as property of company.

4th. Although I have carefully abstained from interfering in any matters connected with the Company, I have on all occasions afforded their Establishment every assistance in my power. When the demand for Convicts did not admit of the largest private Establishments receiving more than three Men on any one occasion, or from any one Ship, the Australian Agricultural Company was allowed to receive *twenty*; and these were regularly furnished until the Agent signified his wish not receive any

Convicts assigned to company.

* Note 148.

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Military, magistrate and police stationed or grant to company.

more for some time. A Detachment of Soldiers has been long stationed at the Company's Settlement, solely for the security of their Establishment and at the express desire of their Agents here; and an Officer has been sent there, since Mr. Dawson's removal, to Act as a Magistrate, though at much inconvenience to the Military Service, two Constables having been previously appointed to the Establishment, who are still maintained by the Government at an Expense of £100 per Annum.

Motives of R. Darling.

5th. I beg, Sir, you will not suppose, in stating these matters, that I have any desire to arrogate to myself undue merit for attending to the Company's concerns. What I have done has been done purely from a sense of public duty; and the facts, which I have had the honor to state, are brought forward merely to rebut any representation which may have been made of my being hostile to the Company's interests.

Proposed alteration of boundaries to grant.

6th. Having thus endeavoured to show that the Australian Agricultural Company received the land in question as fully and completely as if it had been delivered over in the most formal manner, I beg to observe at the same time that I am not aware of any other objection to an alteration of the Boundaries than the inconvenience, which would be occasioned, and which no doubt would be very great, by doing away the arrangements which have been made, the Church as well as the Company's land having been marked off, and the Northern Boundary, to which Mr. McArthur objects, being defined by the River Manning. In stating this however, it may be necessary to observe that I have not had an opportunity of consulting the Surveyor General or the Commissioners for apportioning the Territory.

I have, &c.,
Ra. Darling.

[Enclosure.]

Mr. J. Macarthur to Governor Darling.

My dear Sir. Saturday, 19th July, 1828.

Refusal of J. Macarthur to accept formal transfer of land to company.

I postponed answering your Excellency's Note last evening that I might have more time to consider its contents. Placed in a most embarrassing situation by untoward events, which had not been forseen, and could not be controlled, I must beg to decline taking any part in the intended ceremony of delivering formal possession of the Land, which has been marked for the Anstralian Agricultural Company. I have been induced to come to this determination from possitive proof that the Company's Interest has been wilfully sacrificed by their Agent, Mr. Dawson, in making the River Manning one Boundary of the Grant, with a view of securing for himself and a junto of artful intriguers a large tract of Land of the richest quality, which the Company's Land Surveyor was employed at a great Expense to the Company to explore and accurately Survey, whilst no pains were taken to Survey the Land which Mr. Dawson consented to receive for the Company.

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Refusal of J. Macarthur to accept formal transfer of land to company.

Since their affairs have been under my direction, the Surveyor has been employed in Examining the interior of the proposed Grant; but, from various causes of obstruction, arising from the broken and nearly impracticable state of an unexplored wilderness, this undertaking advances very slowly; sufficient, however, has been already ascertained to create an apprehension that at least two thirds of the Land, which your Excellency proposes to surrender, is either barren or nearly inaccessible, and that the allowance made by the late Surveyor General for waste Land is very insufficient.

Pursuaded that it is the wish of Your Excellency to carry into effect the Instructions of His Majesty's Government on a liberal and just principle, I would beg to press upon your Consideration the expediency of postponing the formal surrender of the Grant, until the Quality and usefulness of the Land, which has been chosen, can be ascertained.

I remain, &c.,

JOHN MACARTHUR.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 144, per ship Ellen; acknowledged by Sir George Murray, 9th August, 1829.)

Sir, Parramatta, 29th December, 1828. 29 Dec.

Application for loan from bank of N.S.W.

The embarrassed state of the Bank of New South Wales having induced the Directors to apply to the Government for a loan of £15,000, I have the honor to acquaint you that their application has been complied with on the condition of their winding up their concerns in the course of twelve months.

Inquiry by executive council.

I cannot, Sir, put you more completely in possession of the course which was pursued in investigating the affairs of the Bank, and of the grounds which led to the determination of the Government in this case, than by forwarding a Copy of the Minute of the Proceedings of the Executive Council which was engaged four days in prosecuting the enquiry.

I beg leave to transmit accordingly for your information a Copy of the Minute of Council, with the necessary Papers connected therewith; and I request more particularly your attention to the Memorandum, dated the 21st inst., which I submitted to the Council, containing observations arising out of the testimony of the several Individuals who had been examined. The Memorandum, alluded to, will be found to contain a Sketch of the proceedings of the Bank on some important points, which proceedings appeared to the Council to furnish ample proof of the mismanagement of its concerns, and to evince a total abandonment of those principles and rules, without a due observance of which such Establishments cannot be successfully conducted.

Mismanagement by bank of N.S.W.

Previous assistance granted to bank.

I should observe that it is little more than two years, as I had the honor to report in my Despatch No. 32, dated the 20th of May, 1826, that the Government was under the necessity of assisting this Bank to the extent of £20,000, which it did under

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the conditions explained in my Despatch above referred to. The loan however was no sooner repaid on that occasion than the Bank, being relieved from the restraint which the Government had imposed upon it, had recourse to its former proceedings by discounting the Bills of Individuals possessing little or no means to a very disproportionate and undue Amount, thus supporting them in their Speculations undertaken on this fictitious Capital.

Reversion to former methods of business.

Methods adopted in increasing share capital.

The means resorted to, as will be seen on reference to my Memorandum of the 21st inst. above referred to, of paying the instalments on the Shares, which had been recently purchased, furnish another proof of the extreme misconduct of the Bank. It will be seen that in general these purchasers, instead of depositing Cash or Notes convertible into Money, were permitted to give in their promisory notes for the amount, which it was evident they had no means of redeeming. Others again appear to have drawn what is termed "accommodation Bills," and thus became large Shareholders, without contributing one farthing to the funds of the Bank, though its necessities were of the most pressing nature, and obliged it to apply to the Government for support. The original Proprietors themselves appear to have adopted a very extraordinary expedient in the distressed state of the Bank, as will be seen by my Memorandum, of encreasing the number of their Shares individually without adding to the funds of the Bank; and, coupled, as this circumstance is, with the fact of their having at the time available funds in the other Bank, it furnishes a pretty good proof that they were not disposed to risk their Money in their own Establishment.

Reasons for granting assistance to bank.

It may perhaps be considered extraordinary, under the circumstances now stated, that the Government should have been induced to afford the Bank any assistance. It may therefore be necessary to explain that it was influenced by a consideration of the present distressed state of the Colony, arising from the failure of the crops and loss of Cattle occasioned by the severe drought, which has so long prevailed, and the concurrent testimony of all parties examined by the Council, as well as the opinion of the Members themselves, that, should the operations of the Bank suddenly terminate, it would occasion the immediate ruin of many Individuals, while the stability of the proprietors generally was a sufficient guarantee that the Government could not ultimately suffer any loss. On the other hand it was considered that the mismanagement of the concerns of the Bank, being in fact a repetition of its former proceedings, was of such a character as to render it necessary on the part of Government, when furnishing the means of its temporary support, to take such steps as would prevent the recurrence of the evil.

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It appeared, at the same time, that, by the course resorted to of granting the Bank a loan for twelve months, every object would be answered, namely, the evil apprehended from any sudden termination of its operations would be prevented; and that, by obliging the Bank progressively to diminish its discounts and wind up its concerns within a given time, it could no longer persevere in the pernicious course it had hitherto pursued.

Loan granted on conditions.

Satisfied as I am of the advantage of a Second Bank* in a Colony of this extent, I should not readily have been induced to consider the discontinuance of the Bank of New South Wales desirable. But the necessity of it was rendered apparent by the obvious mismanagement of its concerns, and the little hope that could be entertained of any amendment being effected under its present direction.

Advantages of a second bank.

I have, &c.,

Ra. Darling.

[Enclosure.]

Extract from the Proceedings of the Executive Council.

Proceedings of executive council.

Minute No. 14.

Council Chamber, 17th December, 1828.

Present in pursuance of Summons:— His Excellency the Governor; His Honor the Chief Justice; The Honorable The Archdeacon; The Honble. The Colonial Secretary.

His Excellency The Governor laid before the Council a Letter addressed to him by the President of the New South Wales Bank, soliciting from the Government a Loan of £15,000 to meet the present distresses of the Bank. An Abstract of the aggregate Balances was laid upon the Table, from which it appeared that the Bank held 430 Bills amounting to £61,590 1s. 3d.

Application for loan from bank of N.S.W.

The Council, previous to taking into consideration the expediency of extending to the New South Wales Bank the assistance required, wished to ascertain, How far the suspension of the operations of the Bank would affect the Credit and General Interests of the Colony, and what extent of Individual distress of Persons liable to the Bank would be induced by the Bank being itself compelled to enforce payment by legal process. Mr. Richard Jones the President of the Bank having been called before the Council to furnish certain information respecting the affairs of the Bank, he answered the several questions, which were put to him as follows, Vizt.:—

Inquiry *re* effect of suspension of business by bank.

Examination of R. Jones.

Qn. What is the total amount of nominal Capital, the number of Shares; are all these shares taken and by whom?—*Ans.* There are 1,500 Shares of £100 each, which give a Capital of £150,000; of them 74 Shares are not yet taken; the names of the present Proprietors are stated in the annexed list.

Share capital.

Qn. What amount of the Bank Stock, which is stated at about £29,000, has been actually paid in cash?—*Ans.* About £17,000.

Amount subscribed.

Qn. Have the Promissory Notes for the remaining £12,000 been renewed, and how often?—*Ans.* They have been renewed once, deducting 25 per cent., which was paid in cash, and are to be renewed again Quarterly, making a similar deduction until the whole is paid up.

Payment by promissory notes.

* Note 149.

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Bills discounted.

Qn. Who are the Persons liable upon the Bills due to the Bank, amounting to £61,590 1s. 3d.?—*Ansr.* See annexed List.

Qn. Have any of these Bills been renewed in consequence of engagements to the Old Bank before its last embarrassments?—*Ansr.* Yes, several.

Qn. What proportion of Bills are now overdue, for what period respectively, and what names are upon these Bills?—*Ansr.* There are 54 Bills now overdue, amounting to £8,900 11s. 9d.; the Individuals liable are stated in the annexed list.

Qn. How far do the same names appear upon Bills which have not yet fallen due?—*Ansr.* All of them more or less.

Qn. What proportion of the remaining outstanding Bills do you think will be paid when they become due without renewal?—*Ansr.* About one third.

Effects of suspension of business.

Qn. What do you consider would be the effect upon the general and mercantile Interests of the Community, if the Bank of N. S. Wales was to suspend its operations?—*Ansr.* That its effects in the present distressed state of the Colony would be most ruinous.

Mr. Jones withdrew.

Witnesses required *re* probable effects of suspension of business.

The Council, wishing to obtain further information as to the probable effects of a suspension of the operations of the N. S. Wales Bank, advised that the following Gentlemen should be examined before the Council, Vizt.:—

The Honble. John McArthur, Esqe.; The Honble. R. Campbell, Esqe.; Edwd. Wollstonecraft, Esqe.; Jemmett Brown, Esqe.; T. G. Savage, Esqe.

His Excellency the Governor was pleased to order that these Gentlemen should be requested to attend the Council accordingly.

The Council adjourned to the following day at 10 o'clock a.m.

18th December, 1828.

Present, as before.

The Council having resumed the consideration of the application on the part of the N. S. Wales Bank for a Loan of £15,000 from Government.

Evidence of J. Macarthur.

The Honble. J. McArthur, Esqe., one of the Directors of the Bank of Australia, was introduced, and requested to inform the Council what he thought would be the effect upon the Bank of Australia if the Bank of New South Wales were suddenly suspended?

Mr. McArthur replied that he found considerable difficulty in answering that question; that he had conversed with several Merchants upon the subject, and could not arrive at any conclusions to his own satisfaction. The same Persons were under engagements to both Banks, and the stoppage of the one must consequently affect the other. Mr. McArthur stated further that the balance due to the Bank of Australia is about £60,000; to the Bank of N. S. Wales he believes about the same amount; and he was of opinion that there is at least £160,000 out in the hands of private Individuals.

Mr. McArthur was next requested to state his opinion as to the effect of a sudden suspension of the operations of the N. S. Wales Bank upon the General Interests of the Colony?

He was of opinion that it would occasion very great and general distress among all classes, and that it would affect at least two thirds of the Landed Proprietors; this, he thought, was owing in a great measure to the present distressed state of the Colony, distress which he attributed to the successive seasons of drought, the

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Evidence of J. Macarthur.

consequent failure of crops, the depreciation of Stock, and the reduction in the value of wool in the mother country. Mr. McArthur also attributed it to the spirit, which prevailed among the mercantile people in Sydney, of speculating beyond their capital; and he thought that this evil had been encouraged by the facility which Individuals found in discounting their Bills at the Banks; he was also of opinion that the present embarrassments of the N. S. Wales Bank proceeded in a great measure from the circumstance of the Principal Proprietors keeping their own money in the Bank of Australia.

Evidence of E. Wollstonecraft.

Mr. McArthur withdrew, and Mr. Wollstonecraft, a Director of the Bank of Australia, was next introduced.

Upon being asked what he thought would be the effect upon the Bank of Australia if the operations of the Bank of N. S. Wales were suddenly suspended?

He expressed it his opinion that the effects in the first instance would be severely felt; the general panic, which in all probability would prevail, would occasion a run upon the Australian Bank; the same feeling would induce the depositories to withdraw their Money, and he thought they would be correct in doing so; the amount of deposits at present in the Bank is very considerable, and among the depositories, many of them are Proprietors in the Bank of New South Wales. The Bank of Australia discount to the full extent of their Capital, and a very large proportion of the Parties, liable upon Bills due to the N. S. Wales Bank, are also liable to the Bank of Australia, and the abrupt suspension of the one would neeessarily affect the other.

Mr. Wollstonecraft was next requested to state his opinion as to the effects of a stoppage of the operations of the N. S. Wales Bank upon the Country at large?

Mr. Wollstonecraft then produced a written Paper upon the subject, which he requested he might be allowed to read.

The substance of this paper was that an abrupt suspension of the operations of the N. S. Wales Bank would be ruinous in the extreme both to the Agricultural and Mercantile Interests.

He stated that the existing circulating medium of the Colony was about £60,000; the stoppage of the N. S. Wales Bank would take away £10,000 and would cause the Australian Bank to diminish their Issues £5,000, making in all £15,000, or one fourth of the exchangeable value of the Colony; and the value of Property would consequently be diminished one fourth; the effects upon the Government would in the first instance appear beneficial by demonstrating the Value of Contracts; but ultimately its expenses would be encreased from there being a less demand for the labour of Convicts, and the revenue would suffer from the diminished consumption of excissable Articles.

Mr. Wollstonecraft did not think that Government granting a Loan to the N. S. Wales Bank would be of any permanent advantage; he condemned the principles upon which that Bank had been conducted, to which he attributed its present embarrassments; it had lost the public confidence, and nothing could restore it but an entire remodelling and change of Directors. In order to meet the distress, which would be occasioned by the sudden diminution of one fourth of the circulating medium of the Colony, Mr. Wollstonecraft proposed that Government should advance £15,000 to the Bank

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of Australia, bearing an Interest of 5 per cent., with the understanding that the Bank should increase its issues to that extent.

Evidence of E. Wollstonecraft.

Mr. Wollstonecraft deprecated the existence of one Bank only as exclusive and monopolizing; he thought that the business of the Colony required that there should be two, so that all Parties might share equally in the benefits of such Establishments, besides that they would serve as a mutual check upon each other.

Mr. Wollstonecraft withdrew, and Mr. Savage, one of the Directors of the N. S. Wales Bank, was next introduced.

Evidence of T. G. Savage.

He stated it to be his opinion that the effects of a sudden stoppage of the N. S. Wales Bank would be ruinous in the extreme; he attributed the present difficulties of the Bank to the distresses of the times, which prevented persons, whose Bills had been discounted, from meeting their engagements, although they have ample security of property.

Mr. Savage stated that the Issues of the Bank had not been extravagant, and he considered its present state to be much more wholesome than it was some time past.

Upon being asked why the same causes had not operated equally on the Bank of Australia? He answered that the circumstances of the two Banks were not precisely the same, and he thought it probable that they also would be affected by the times.

He mentioned that the Commissariat had entered into an arrangement, by which the Bank of Australia's Paper is issued to Persons who supply the Commissariat, in payment of their Contracts, and through them the Notes are circulated throughout the Colony; while, on the other hand, the Notes of the N. S. Wales Bank are confined to Sydney, and are always operating to draw away money from the Chest. Upon being asked if many of the Directors of the N. S. Wales Bank have deposits in the Bank of Australia? Mr. Savage answered that Mr. Jones and himself both had and also several others. Mr. Savage explained that much of the present distress arose from the excessive Imports which had taken place; that the second rate dealers had been tempted by the Comparative cheapness of the Goods to make large purchases; fresh Imports reduced the prices still lower, and were again eagerly bought up, until at last the Market had been glutted, the Goods are unsaleable, and the Purchasers are in consequence unable to meet their engagements with the Bank; the Settlers from a failure of their Crops are unable to pay, and the dealers from over speculating are unable to pay the Importers.

Mr. Savage withdrew, and Mr. Jemmett Browne, Merchant, was next introduced.

Evidence of Jemmett Browne.

Mr. Browne knew the Colony to be in a very distressed state and attributed it in a great measure to over trading in fictitious Capital.

Persons have purchased Goods, discounted Bills, and made their remittances, expecting to find a ready market; but, other Goods having come in in larger quantities than there was any demand for, the value of the whole has been so reduced that what was first imported cannot now be sold. Mr. Browne was of opinion that the Banks had occasioned this in a great measure; they have afforded the means of speculating to persons without Capital, who have obtained Cash by means of discounting Bills and made their remittances to England, the Goods now remaining on their hands.

The Settlers are so distressed at present that they cannot pay, and, if pressed, must be ruined.

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Mr. Browne was of opinion that, by prudence and good management, the affairs of the Colony may be brought round; he understands that Individuals are more cautious than formerly in making purchases; as a remedy under the existing circumstances of the Colony, he would propose to stop discounting for Importers, so as to check the spirit of speculation, and thus afford relief to the middle man holding the Goods. Evidence of Jemmett Browne.

Mr. Browne withdrew, and Mr. Rd. Jones, the President of the New South Wales Bank, was introduced. Evidence of R. Jones.

Mr. Jones, in answer to several questions which were put to him, stated: He had no doubt that the assistance required £15,000 would enable the Bank to go on, and wind up its concerns in a wholesome manner.

He thought that a New Establishment might be beneficially formed, and some of the Persons now in the direction advantageonsly left out. He stated that perfect unanimity prevailed in the Direction at present, but that some unpleasant debating occasionally took place when the Proprietors met.

The Council adjourned to the following day at 10 o'clock a.m.

T. DE LA CONDAMINE, Actg. Clk. Col.

Minute No. 16.

Council Chamber, 19th Decemr., 1828.

Present as before.

The Council having resumed the consideration of the application made to the Governor by the Bank of N. S. Wales for a Loan of £15,000, His Excellency The Governor proposed to the Council that the assistance required should be given upon condition of the closing their affairs within a given period. Loan proposed by R. Darling.

The Council, having duly considered and fully discussed the subject with reference to the evidence, which had been given before the Council at their previous Meetings, concurred in the expediency of the measure proposed, and recommended that the Proposition should be made in the first instance to the President of the Bank, with the view of ascertaining if the Proprietors would be disposed to accede to it. Approval by council.

Mr. Jones, having been called before the Council, stated that, without first consulting the Proprietors, he could not answer whether they would agree to wind up their concerns. He was himself of opinion that their affairs might be wound up by reducing the discounts gradually; but he did not think it could be accomplished without loss and inconvenience in less than twelve months. Upon being asked whether any offer had been made to the N. S. Wales Bank by the Commissariat to enter with them into a similar arrangement, as that by which they at present made payments through the Bank of Australia, Mr. Jones answered that no such offer had ever been made. Opinion of R. Jones *re* proposed loan.

Mr. Jones having retired, the following memorandum, specifying the Conditions on which the Government would grant a Loan of £15,000 to the N. S. Wales Bank, was drawn up. Memorandum of conditions for proposed loan.

Memorandum.

That a Credit to the extent of the sum required £15,000 will be given for twelve months from the present date, bearing the Bank Interest, on the following conditions, Vizt.:—

1st. That the Bank shall wind up its concerns finally in the course of twelvemonths.

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Memorandum of conditions for proposed loan.

2nd. That one Director shall be named by the Government for the purpose of seeing that the stipulations of the Govern't. are observed.

3rd. That there shall be a progressive diminution of the Discounts, and a weekly abstract of aggregate Balances shall be transmitted for the information of His Excellency the Governor.

4th. That there shall be no dividends of profits until the claims of Government are fully satisfied.

5th. That the Colonial Secretary, the Colonial Auditor and the Solicitor General shall select Bills from the discounted Paper of the Bank, to the amount of the money advanced to them from time to time, as a collateral security, which Bills may be replaced, when they become due, by other Bills subject to the same right of selection.

Mr. Jones, having been again called before the Council, the foregoing Memorandum was read to him and a Copy given him for the purpose of being communicated to the Bank Proprietors.

The Council adjourned.

T. DE LA CONDAMINE, Actg. Clk. Col.

Minute No. 17.

24th December, 1828.

Present as before.

Resolution of proprietors *re* proposed loan.

His Excellency the Governor then laid before the Council the following letters, which had been received from the President of the New South Wales Bank, enclosing the Copy of a resolution adopted by the Proprietors of that Establishment, in reference to the Memorandum from the Government, which had been communicated to them, of the Terms upon which the Government were disposed to make them a loan of £15,000, for twelvemonths, "Vizt.":—

Sir, Bank Buildings, 20th December, 1828.

I have the honor to inform you that, in consequence of the Memorandum of the Executive Council, which you delivered to me yesterday on the subject of the loan solicited by the Bank of New South Wales from Government, a meeting of the Proprietors of Bank Stock took place this day, when the enclosed Resolution was adopted, which I beg you will take the earliest opportunity of submitting to His Excellency the Governor: and I am to acquaint you that the body of Proprietors feel most sensibly the kind consideration His Excellency has manifested towards the Bank, and they hope His Excellency will meet their wishes on the present occasion.

I have, &c.,

RICHARD JONES, President.

T. DE LA CONDAMINE, Esqr., Clerk of the Council.

Enclosure in the above.

Resolved that the Proprietors of this Bank are ready to accede to the several propositions contained in the Memorandum of the Governor and Council with the exception of the first, and that they are ready to subscribe to that proposition provided the Government loan be not paid of by the end of nine months.

In reference to the foregoing His Excellency The Governor laid before the Council the following Memorandum, containing his own views of the subject.

Memorandum.

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Criticism of proposal of proprietors by R. Darling.

The point for consideration appears to be, with reference to the communication made by the Council, whether the object of that communication would be effectually answered by the propositions submitted by the Bank.

The Bank would no doubt be relieved by means of the loan, as it would be enabled for a time to meet such demands as might be made upon it; but would this do more than remove the evil for the moment? What well founded reason is there to expect that the relief afforded would be attended with any permanent Benefit, or how can it be hoped (notwithstanding the undoubted means of the Proprietors ultimately to meet the Engagements of the Bank) when it is proved by circumstances that neither the Members of the Bank nor the Public at large have any confidence in it?

It is a fact, which has been established by the testimony of the Directors themselves, that they individually keep their Money in the other Bank, and that the *Monied* People of the Colony also make their Deposits at the Bank of *Australia*. I do not here allude to those who discount Bills, for which there is no immediate or Actual representative. But to persons who have the Command of Money.

It seems to deserve consideration, whether the Bank of New South Wales, entrusted with the property of the Public to a certain Extent, has not forfeited all claim to the Confidence of the Public, by receiving Promissory Notes or Notes of Hand as the representative of Money, which it is evident that several of the Persons, who appear as the recent purchasers of Shares, were unable to pay.

It is hardly enough to state that as yet they have made no Dividend or payment under that head to such shareholders. There can be no doubt of their having intended to do so. For, in the letter of the President applying for Assistance, it is stated that the Dividends of last year did not exceed half the amount of the previous year, which were at the rate of 35 per Cent., and that the Dividends of the *present* year would not be more than 12½ per Cent.

On looking at the statement laid by the President of the Bank before the Council, it will be seen that a sum exceeding *Nineteen* hundred pounds, under the head of Profits, was set apart for the payment of Dividends, and there can be no doubt that that sum would have been so applied, had not the total failure of their means at the moment prevented it.

It may further be adduced in proof of the opinion that the New South Wales Bank is not held in estimation by the Public generally, that many of the Shares still remain undisposed of. There appears to be a sort of understanding that the Proprietors are to take these Shares amongst them, if other Persons cannot be found to purchase them. It is evidently the interests of these Persons, who are already embarked in the concern, to exert themselves to support it; and they have resorted to this rather extraordinary means of doing so. But where is the advantage of the present proprietors taking up these shares, if they cannot pay for them? It must not be forgotten that, at the last Examination of the President, he stated that several of the Shareholders had paid up the *full* amount of their Shares. That he himself possessed four Shares and had paid *£400*; on referring to the "Statement" which he presented with other Documents to the Council, it appeared that he was returned

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Criticism of proposal of proprietors by R. Darling.

as holding *20* Shares instead of 4, and consequently had paid only 20 per Cent. on that Number, instead of the full Sum on 4 Shares. This appeared to be the case in several other instances; and, in no one case, did it appear that any Proprietor had paid up the full amount of his Shares.

This circumstance is not brought forward under an idea that it is necessary the Shareholders should pay up the *full* amount of their Shares, but to shew the fictitious and unprofitable means resorted to for the purpose of swelling the number of Shares disposed of, for example, a person, who held any given number of Shares, having paid the Instalments on such Shares, is returned for double or treble that number without adding one farthing to the sum he had paid in on account of the Shares originally taken by him; while other persons are admitted as Purchasers without making any payment whatever, but give their Notes of Hand, which it is evident they have no means of redeeming.

A Bank so conducted may be a very convenient Machine to keep persons or Establishments in motion, who possess no real Capital. The question is whether it can be for the benefit of the Colony generally, that such a System, or Persons so circumstanced, should be so supported at the risk of the real capitalist, or whether the Government has not done enough, even admitting, as has been stated by the persons examined, that serious injury would probably be occasioned to the community at large by any sudden stoppage of the operations of the Bank of New South Wales, by tendering the Bank the means of meeting its present Engagements and of progressively winding up its concerns, so as to avoid the evil apprehended by their operations being brought to an immediate close? It may be proper to state in this place that, in the observations I have made, I have no intention whatever of advocating the Cause of the Bank of Australia, or of any Bank exclusively. My opinion is, as far as I am competent to Judge, that two Banks are not only desirable, but, considering the encreasing Trade, etc., of the Colony, are absolutely necessary.

RA. DARLING.

21st December, 1828.

Conditions of loan to be enforced.

The Council concurred in the views of His Excellency The Governor and were of opinion that the Government should not accede to the Proposition contained in the Resolution of the Bank, or depart from the communication which had been made to them on the 19th instant.

The meeting was dissolved.

T. DE LA CONDAMINE, Act. Clk. Col.

[Sub-enclosure No. 1.]

MR. R. JONES TO GOVERNOR DARLING.

Sir, Bank of N. S. Wales, 15th December, 1828.

Application for loan by bank of N.S.W.

By the desire of the Directors of this Institution, I have to apply to Your Excellency for a Loan of Fifteen thousand Pounds of British Silver for Six Months, and to state that the Bank is in a condition to give the Government unquestionable security for the repayment of this Money at the end of that period.

Your Excellency may perhaps consider it strange that this Institution should be thus driven a second time in the course of little more than two Years to solicit a Loan of this description; on the first of these occasions, the Directors had reason to take much

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blame to themselves for the dilemma in which the Bank was placed; a spirit of overtrading then pervaded the Mercantile Classes of the Colony, and unfortunately the contagion of this example infected the Bank itself. On the present occasion, the distress of the Bank arises from far different causes, owing to a two Years' drought, the almost whole failure of the last wheat and corn harvest, and the very scanty Return which the present Wheat Harvest promises to the Cultivator; an almost universal state of insolvency threatens all classes, the Settlers being unable to pay their Debts to the Mechanics, Traders, and Merchants, and these latter Classes being unable in consequence to meet their Engagements in the Bank. To aggravate this unexampled depression, your Excellency is aware that there has been an importation of Merchandize in the course of the present Year of about £600,000; that this amount, so far beyond the ordinary consumption of the Colony, includes large Quantities of Grain, which have been paid for principally in Treasury Bills, and have occasioned a constant Drain on the circulating medium of the Colony. To these evils, which it evidently has not been within the scope of human power to prevent or rectify, and for which the only prospect of relief will be found in the abundance of future harvests, the present straitened circumstances of this Institution are attributable, and not to any want of caution and foresight in its direction; for, whereas in the Half Year ending the 30th June, 1826 (the period immediately preceeding our last embarrassment), the Divident payable on Bank Stock was after the Rate of 35 per Cent. per annum, and in the Half Year ending the 31st of this Month, the Divident payable thereon will be reduced to the rate of about 12 per cent. per annum.

Causes of distress of bank.

Reduction of dividend.

I need not point out to your Excellency of how great importance it is to the whole Colony that this Institution should be upheld in such a crisis as the present. The weekly discounts of the Bank may be averaged at less than £4,000, a Sum which circulates through all the Channels of our internal Industry and imparts Life and vigour to the whole. If this weekly accommodation were suddenly withheld, a general stagnation and derangement would ensue; and, among an infinite number of other evils, there would be a great falling off in the Colonial Revenue.

Effects of suspension of business.

These, Sir, are briefly the grounds upon which this present application to your Excellency is founded; many instances of similar Loans will be found of late Years in the History of the Government of the Mother Country and some of them your Excellency is aware are of very recent date.

I have, &c.,

RICHARD JONES,
President of the Bank of New South Wales.

[Sub-enclosure No. 2.]

AGGREGATE BALANCES, BANK OF N. S. WALES, 15 DECEMBER, 1828.

Balance-sheet of bank of N.S.W.

DR.				CR.			
Bank Stock subscribed	£29,018	5	4	Coin	£339	17	8
Bank Notes in circulation	9,401	0	0	Discounted Bills coming due £41,255 1 3			
Deposits	20,904	14	4	Bills overdue 8,900 0 0			
Profit and Loss	1,925	14	10	Bank Stock Bills coming due £11,435 0 0	61,590	1	3
Dividends	259	12	5	Mortgage deeds	270	0	0
Unclaimed Dividends	35	0	4	Cost of Office Goods and furniture	513	4	8
Amount due to the old Bank* of N.S.W.	1,168	16	4				
	£62,713	3	7		£62,713	3	7

* Note 150.

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List of shareholders in bank of N.S.W.

[Sub-enclosure No. 3.]

NOMINAL Capital £150,000 in 1,500 shares of £100 each. Proprietors of Stock in the Bank of N. S. Wales with the Amount paid by each.

Names.	Shares.	Amount. £	s.	d.
W. C. Wentworth ..	100	2,000	0	0
Danl. Cooper	100	2,000	0	0
Samuel Terry	100	2,000	0	0
P. Cavenagh	80	1,554	13	4
James Underwood .	35	1,509	6	8
George Thomas Savage	55	1,400	0	0
Robert Wardell ...	60	1,200	0	0
William Hutchinson	36	1,200	0	0
F. W. Unwin	50	1,000	0	0
Ellis M. Scott	35	700	0	0
Samuel Lyons	35	700	0	0
John Robson	35	654	13	4
Margaret Campbell .	32	636	13	4
G. T. Pitman	30	600	0	0
William Brown	8	573	0	0
Robert Cooper	35	509	6	8
G. B. Vine	10	500	0	0
John Macqueen ...	25	500	0	0
Wm. Redfern	25	475	2	8
Mary Reiby	20	400	0	0
Richard Jones	20	400	0	0
Robert Campbell ..	20	382	0	0
James Chisholm ...	25	382	0	0
T. H. James	15	337	11	4
Wm. Lawson	15	300	0	0
R. C. Pritchett ...	15	300	0	0
Wm. Walker	15	300	0	0
Robert Howe	15	300	0	0
Thos. Raine	15	300	0	0
J. B. Bettington ...	15	300	0	0
Edward Hunt	15	300	0	0
Wm. Walsh and Ed'd Redmond	15	287	16	8
John Tawell	12	250	0	0
Ch. Walker and J. Elder	11	211	4	0
Richd. Fitzgerald ..	10	200	0	0
James Doyle	10	200	0	0
T. Bodenham	10	200	0	0
G. Williams	10	200	0	0
J. Harris	10	200	0	0
Caleb Wilson	10	200	0	0
Simeon Lord	10	200	0	0
Joseph Wyatt	10	200	0	0
John Smith	10	200	0	0
F. C. Crotty	8	160	0	0
Thos. Hyndes	6	150	0	0
T. Street	6	150	0	0
J. Wilshire	6	150	0	0
H. Smith	7	140	0	0
Chas. Rapsey	15	127	6	8
James Chisholm ...	5	127	6	8
George Taylor	5	100	0	0
John Hosking	5	100	0	0
J. Simmons	5	100	0	0
J. Blaneh	5	100	0	0
Laun't Iredale	5	100	0	0
George Doddery	5	100	0	0
Jacob Josephson ...	5	100	0	0
P. J. Coken	5	100	0	0
Thos. Wood	5	100	0	0
A. Beveridge	5	100	0	0
G. Druitt	5	100	0	0
J. Webb	5	97	14	8
Fredk. Garling	4	75	2	8
David Maziere	5	63	13	4
R. D. Cunningham .	3	60	0	0
Wm. Lithgow	10	63	13	4
Thos. Spicer	3	60	0	0
A. Foss	3	60	0	0
Peter H. Rapsey ...	3	60	0	0
F. Mitchell	3	60	0	0
Prosper Demestre ..	60	50	0	0
	1,426	£29,018	5	4
Total number of shares	1,500			
	74			

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Ellen.)

30 Dec.

Sir, Parramatta, 30th December, 1828.

Report *re* conduct of Revds. F. Wilkinson and C. P. N. Wilton.

It is a very painful part of my duty to forward Complaints of the misconduct of the Clergy, and I regret extremely having been called on so frequently of late to discharge it.

The enclosed Representation from the Archdeacon relates principally to the Reverend Mr. Wilkinson and the Reverend Mr. Wilton, both of whose names have been already brought under your consideration. The former appears so determined to persevere in his ill judged proceedings that I should be disposed, if within my province, to suspend him.

I beg leave further to enclose for your consideration the Copy of a Letter, which I received from the Archdeacon, with the

accompanying "Resolution" entered into by the Trustees of the Church Corporation, in consequence of the proceedings of Mr. Wilkinson in the Case, communicated to you in my Despatches dated the 2nd and 25th August last, marked "Separate." 1828. 30 Dec.

I have no hesitation in stating my opinion that Mr. Wilkinson is a discontented, factious Man, who, being perhaps aware that he cannot remain in the Service, is determined to go all lengths to gratify his animosity towards the Archdeacon. The Character of the Clergy and the Government must suffer by the continuance of such Men in the Service. Character of Revd. F. Wilkinson.

It appears by the Archdeacon's Letter of this date that Mr. Wilton is desirous of returning to England, as soon as he can be relieved.

I suspect he has connected himself with an Attorney of the name of Unwin, who came out in the ship with him, and who it appeared, in the late investigation of the Concerns of the Bank of New South Wales, had been permitted to draw Bills on Mr. Wilton for the payment of a number of Shares, which he cannot have any means of taking up. Mr. Unwin is the person mentioned in my Despatch of the 2nd August last, whom Mr. Wilton employed to wait on the Archdeacon to obtain the payment of Mrs. Wilton's Salary, as Matron of the Female Orphan School, the duties of which Situation she never discharged. Association of Revd. C. P. N. Wilton with F. W. Unwin.

I shall regret indeed the loss of the Reverend Mr. Smith, who from his Habits and Acquirements would have proved a most useful Person in this Colony. But I have found it impossible to induce him to remain, both his Wife and himself being disgusted with the proceedings of certain Individuals at Windsor, where he has been employed. His Wife's health indeed seems to have suffered very materially in consequence. Resignation of Revd. E. Smith.

Mr. Vincent, who was appointed to Moreton Bay, is a poor Valetudinarian and can never be of much use any where. He has been extremely ill lately, and, from the state of debility he is in, I should doubt the chance of his surviving for any time. Ill-health of Revd. J. Vincent.

It would appear from this Statement that four Vacancies will require to be provided for. I should doubt, however, the necessity of sending out that number of Chaplains immediately, for, although there are one, two or three Districts which require Clerical Assistance, there is no accommodation for the Clergyman or for the performance of Divine Worship at these Stations; and it is very certain that neither the Funds of the Government nor the Church Establishment are in such a state as to permit of the requisite Buildings being erected at present. Necessity but want of accommodation for clergy.

I have, &c.,

Ra. Darling.

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[Enclosure No. 1.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Sydney, 30th December, 1828.

Resignation of Revd. E. Smith.

I beg to acquaint your Excellency for the information of the Secretary of State that the Reverend Elijah Smith, a Chaplain on the Establishment of this Colony, has sent in his resignation accompanied with a medical Certificate of the danger to which the health of his wife is exposed by remaining in a hot climate.

Ill-health of Revd. J. Vincent.

I have also to state that I have received the Certificate of the Government Assistant Surgeon at Parramatta, acquainting me that there is great risk and danger in sending the Reverend John Vincent to Moreton Bay, and, although the same certificate states he may be able to undertake his professional duties in a district to which he might be appointed and to which a sea voyage may not be necessary, yet his feeble and nervous state has prevented him ever since his arrival from doing little more than occasionally to assist another Chaplain, and from its continuance I can scarcely hope he will ever be able to fulfil the fatiguing duties to which a Chaplain is exposed in this Colony. I fear moreover his health is too precarious to depend on any long continuance of his Services. How far under these circumstances, coupled with his former objections, stated in my Letter of the 19th of August last to your Excellency, the Secretary of State will feel disposed to displace him, I leave for his consideration.

Resignation of Revd. C. P. N. Wilton.

I have also to announce the resignation of the Reverend Charles Wilton, who is desirous of returning to England as soon as he can be relieved.

Misconduct of Revd. F. Wilkinson.

I am under the painful necessity of again calling your Excellency's attention to the Conduct of the Reverend Frederick Wilkinson of whom I had occasion to complain in my letter of the 19th of August last, which I requested might be transmitted to the Secretary of State.

This Gentleman has thought proper to accuse me and to persist in his accusation of having ordered him to perform Divine Service in a house notorious as a brothel. At a Meeting of the Clergy, at which I presided, he openly used the most insulting language towards me, and followed this up by writing several Letters containing the most unfounded and slanderous expressions; for these he afterwards apologized; but recently he has resumed them in an official form with great affectation of civility, couched in language of a very irritating nature, in the vain hope of provoking me to commit some indiscreet act.

Misstatement *re* court-martial on R. Robison.

On being informed that he had received a Subpœna from a Court Martial to attend at Sydney, I wrote to him to say that I had no power to prevent him obeying that Summons, and that I should take no advantage of his absence on such an occasion from his cure. In an official return of his clerical duties, he has stated he was absent at Sydney, "having been summoned under the Archdeacon's order to attend a Court Martial held upon Captain Robinson"; and, on my stating to him his error, he very pertinaciously replied *that I had ordered him and that he should not have obeyed the Subpœna but by an order from me.* It is not for leaving his cure in this Instance, I complain, because it is too well known by every one (and no one is better acquainted with the fact than Mr. Wilkinson) that

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he is bound to obey a Subpœna from a Court of Justice; and therefore the Reverend Gentleman has committed an error to say the least of it in asserting he attended by my order. I wrote to him, stating simply he was under some error as I had no such power; to which I received a very elaborate and irritating reply, concluding with these words, "It is no trifling charge, when a Clergyman's veracity is impeached; and, permit me to add that, although I may fill a very subordinate situation, I will permit no liberty to be taken with my honor without at least endeavouring to expose the unjust, nay the base attempt."

Misstatement *re* court-martial on R. Robison.

Even the sanctity of the Church has not protected me from his insolence when officiating with him at the Altar. He has subsequently persevered in absenting himself from the duties of his Cure to attend the Court of Trustees, leaving those duties quite unprovided for, and especially at a time when, had he expressed to me a desire to be absent, I could have had them supplied.

Absence of Revd. F. Wilkinson from duty.

On my late visitation into his District, I found so much irregularity and so much neglect that, if there was at this moment a sufficient supply of spiritual assistance in the Colony, I should under the power vested in me by his Majesty notify to your Excellency the necessity of suspending him; for I do not hesitate to say he has by his mis-conduct brought great scandal on the Church and odium on the order. At that visitation, I found the Marriages of two Couple had been delayed, and the parties put to great expense and inconvenience, by travelling one ninety and the other fifty miles through his negligence; I celebrated the Marriage of one Couple myself, and this he has stated in a recent Letter to me to be "informal and illegal."

Proposed suspension of Revd. F. Wilkinson.

His neglect of clerical duties.

The unanimous resolution of the Court of Trustees on the conduct of Mr. Wilkinson, which I had the honor to transmit to your Excellency in my Letter of the 4th instant, was passed after a long deliberation, and evidently with a feeling of regret, until in his speech, which he delivered from a written paper, he stated what was known to every Member present and to himself also to be the most dishonorable falsehoods and a perversion of every fact he had got together. He informed me in a Letter, he intends to communicate with the Ecclesiastical Board; but, as it is a "private" letter, he does not consider it necessary to convey any Copy to me. I cannot but rejoice at being spared the painful task and trouble of replying to such a tissue of virulent and unjust abuse on others, and of exposing the wilful mis-statements, if it is his speech he intends to forward.

Resolution by court of trustees.

Under these circumstances, I trust the Secretary of State will see the necessity of appointing four Chaplains to replace those above mentioned, and that they must distinctly understand that there are destinations called Penal Settlements to which they must on arrival be sent; and I beg also to press their *immediate* departure.

Request for appointment of four chaplains.

Recent intelligence from India leads me to apprehend that we have been deprived of the Bishop of Calcutta, and, in the absence of Episcopal Authority, I have transmitted a Copy of this Letter to the Ecclesiastical Board with a view of having Mr. Wilkinson's conduct brought immediately under the notice of the Archbishop of Canterbury in whose Province this Diocese is placed.

Letter sent to ecclesiastical board.

I have, &c.,
T. H. Scott.

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[Enclosure No. 2.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Corporation Office, Sydney, 4th December, 1828.

Transmission of resolution by court of trustees.

I have the honor to transmit to your Excellency an Extract from the Proceedings of the Trustees of Clergy and School Lands, pursuant to the Resolution, passed at the General Court, held on the 2nd Inst. relative to a charge brought against them by The Revd. F. Wilkinson, one of the Members, in a Letter written to the Bishop of the Diocese, of which Letter The Reverend Gentleman transmitted to me a Copy.

Mr. Wilkinson was called on to explain his reasons for making such a Charge, and, having given them at considerable length, the Resolution I now have the honor to enclose was passed after much discussion.

I have, &c.,
T. H. SCOTT.

[Sub-enclosure.]

Resolution *re* charge made by Revd. F. Wilkinson.

EXTRACT from the Proceedings of the Trustees of Clergy and School Lands at the Quarterly General Court, holden on Tuesday, the 2nd of December, 1828.

2. The Resolution, proposed by the Venerable the Archdeacon at the last General Court, with reference to the Extract from The Reverend F. Wilkinson's Letter* to the Lord Bishop of Calcutta, relative to the Acts of the Trustees, was then read, and an amendment was moved and seconded; when it was unanimously resolved: That this Court has heard from the Report of the Committee with much surprise a charge, made against the proceedings of the Trustees, for "utter disregard of the Provisions of the Charter, and of the common Rules of prudence, which is manifest throughout their Proceedings," Contained in a Letter from The Reverend Fredk. Wilkinson, one of the Chaplains of the Colony of New South Wales, and a Member of the Court, addressed to The Right Reverend The Lord Bishop of Calcutta, and of which Charge the Trustees must have remained in ignorance, and subject to the suspicion of having perverted and wasted the Funds supplied by the Colonial Government for the use of the Clergy and the Schools of this Colony, but for the Extract being laid before them by the Archdeacon; and that, as the Reverend Gentleman has no just foundation for making such a charge, this Court doth direct a Copy of this Resolution to be transmitted to the Governor, praying that His Excellency will be pleased to submit the same to The Secretary of State for the Colonies.

Certified to be a True Extract.

CHARLES COWPER, Clerk of the Corporation.

Corporation Office, 3rd December, 1828.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 145, per ship Ellen.)

Sir, Parramatta, 30th December, 1828.

Despatch acknowledged.

In acknowledging the receipt of your Despatch of the 26th of June last, No. 10, transmitting the Copy of a Letter from the Home Department, signifying that a List is given to the Surgeon Superintendent of every Convict Ship, containing the Names.

* Note 151.

and particulars of the Several Prisoners embarked; I have the honor to transmit the accompanying Copy of a Letter from Mr. Anderson, Surgeon Superintendent of the Convict Ship "City of Edinburgh," signifying that he had not been able to obtain, when leaving England, any List of the Prisoners embarked, by which he appears to have been subjected to very serious inconvenience. 1828. 30 Dec. Inability of surgeon to obtain list of convicts transported.

2nd. I avail myself of this opportunity of bringing under your Notice the case of "John Keefe" as detailed in the enclosed Memorandum, which shows how desirable it is that the lists alluded to should be as full and circumstantial as possible, and points out the inconvenience arising from a want of necessary information respecting the cases of the Prisoners. Necessity for detailed lists.

I shall not trouble you, Sir, with any further observations on the subject, having written so fully in my Despatch No. 65, dated the 5th of April last. But I beg I may be furnished with the particulars of "Keefe's" case, having thought it necessary under the circumstances attending it to grant him a Ticket of Exemption, until I shall be informed whether his Statement is correct, and the period for which he was sentenced has actually expired. Request for particulars *re* J. Keefe.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

SURGEON ANDERSON TO COLONIAL SECRETARY MACLEAY.

Ship "City of Edinburgh,"
Sydney Cove, 10th December, 1828.

Sir,

In reply to your letter of the 8th Inst., received this morning, containing directions from His Excellency the Governor to me to transmit you "the list of the Convicts, who came out in this Ship with their characters prior to embarkation," supposed to have been received by me agreeably to the directions of the Home Secretary of State. Letter acknowledged.

I have to state to you for His Excellency's information that I am not in possession of any document of the kind. I applied personally to Doctor Trevor, the Gentleman who superintended their embarkation, who refused to furnish me with it; I have had much reason to regret this refusal, having been obliged to grope my way among them perfectly unacquainted with their previous characters and habits, and even of the crimes of which they were convicted. Inability to obtain detailed list of convicts.

I have, &c.,
W. ANDERSON.
Surgeon, R.N., and Superintendent.

[Enclosure No. 2.]

MEMORANDUM of the Correspondence relative to the Sentence of John Keefe, per Mariner (3) in 1827. Report *re* J. Keefe.

JOHN KEEFE, a Convict aged 27 Years, arrived in this Colony in the Ship Mariner on the *23rd of May, 1827*.

In the Indent of Prisoners received by that Ship, it is stated that John Keefe was tried at Kerry (no time named) for Pig Stealing

1828. 30 Dec. Report *re* J. Keefe.

and sentenced to 7 Years' Transportation, but, when mustered by the Colonial Secretary, stated that he was tried at Kerry, *17th March, 1821*, for Pig Stealing, and received Sentence of *Seven Years'* Transportation.

He was assigned to Mr. D. McIntyre of the Upper District of Hunter's River, who, on the 20th October last, complained to a Magistrate that the Prisoner refused to attend to directions given him in his usual occupation as Cattle Herd.

The Prisoner Keefe in his defence stated himself to be a free man; that he was tried at Kerry, 15 March, 1821, and sentenced only to seven Years' Transportation.

The Magistrate, not conceiving himself justified in treating Keefe as a Prisoner of the Crown, forwarded him to the Superintendent of Police at Newcastle for further enquiry into his Statement.

Colonial Secretary's Office, 12th November, 1828.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Ellen.)

Sir, Parramatta, 30th December, 1828.

Records of astronomical observations at Parramatta.

In reply to your letter of the 24th June last, I do myself the honor to acquaint you that having called on Mr. Rumker for the three Books of Astronomical Observations required by the Royal Society, that Gentleman informed me that he had already furnished a full transcript of the Observations alluded to, which were delivered to a Mr. Dunlop at the desire of Sir Thomas Brisbane. Mr. Rumker expressed, at the same time, his intention of returning to England by the present opportunity, and requested permission to be the bearer of the Books in question, as the time would not allow of their being copied, and the Originals, which he regards as his own property, were marked with private Memoranda in the Margins in German. I have under these circumstances acceded to Mr. Rumker's request, under the promise that he will deliver these Books of observations to you immediately on his arrival in London.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 146, per ship Ellen.)

31 Dec.

Sir, Parramatta, 31st December, 1828.

Despatches acknowledged.

I have the honor to acknowledge the receipt of your Duplicate Despatch No. 15, dated the 19th of July last, notifying the Establishment which had been fixed for the Customs Department, and the Individuals appointed to the several Situations.

2nd. I beg leave at the same time to acknowledge the receipt of your predecessor's Despatch, dated the 15th of May, No. 27, respecting the situation of Mr. Raymond, on which I shall abstain from making any further observation.

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3rd. As I understand Mr. Cotton the Collector of Customs may shortly be expected here, I have thought it better to defer acting on the Communication, made in your Despatch No. 15, until his arrival; and I shall be very glad to leave in his hands the arrangements connected with that Department.

Expected arrival of M. C. Cotton.

4th. I have however thought it desirable, Sir, to forward for your consideration the accompanying Copy of the report of a Board, which I had assembled, some time previous to the receipt of your Despatch, for the purpose of enquiring into the necessity of the appointment of an Assistant to the Warehouse Keeper, applied for by the Acting Collector of Customs; and I think you will perceive by the report, which is very detailed and satisfactory, that it will be utterly impracticable for the Collector's Clerk to do the duty of his own immediate branch, much less to undertake the charge of the different Warehouses, which at this Moment consist of *Sixteen* in number, several of them being situated in remote parts of the Town.

Proposed appointment of assistant to warehouse-keeper.

Warehouses under customs department.

5th. I beg to draw your attention particularly to Paragraph 7 of the Report, which points out the great encrease that has taken place in the short space of 18 months, and the quantities of Spirits and Tobacco in Store. It will be seen that the duties to be performed in this Branch are very considerable and laborious, and that the arrangements, made by the Lords Commissioners of the Treasury for the purpose, are totally inadequate.

Increase of spirits, etc., in store.

6th. The Rent of the Warehouses at present amounts to £1,100 per annum; to meet which, I have availed myself of the suggestions of the Board and have authorised a charge being made under the head of Warehouse Rent, for the Packages deposited therein. In fixing the Rate of the Rent, I have adopted the Scale laid down by the Chamber of Commerce, instead of that recommended by the Board. The former, being considered the established rate of the Colony, is of course unobjectionable, and is higher than that suggested by the Board. I beg to enclose herewith a Copy of the Government Notice giving effect to this Measure.

Rent of warehouses.

7th. I had nominated a person as assistant to the Warehouse Keeper at a Salary of £200 per Annum, which I think will be seen by the Report of the Board to be no more than a reasonable remuneration for the duties he will have to perform. I shall continue him however only until the arrival of Mr. Cotton.

Assistant to warehouse-keeper.

8th. I avail myself of the opportunity, which is afforded me in writing on this subject, to transmit for your information the copy of a Return made up by the Acting Collector of Customs,

1828. 31 Dec.

Return of extra tide waiters.

shewing the number of extra Tide Waiters employed between the 1st of May and 31st of October last, comprising a period of Six Months. It will be seen that the expense exceeds £900 per Annum, and I am assured by the Acting Collector, who is a most zealous Officer, that the number employed was by no means sufficient, as one Tide Waiter only was on board each Vessel at a time, who of course could not keep the Deck constantly, and advantage was likely to be taken on his going below. In short, I apprehend that, in spite of every precaution and exertion, Smuggling is carried on to no inconsiderable extent.

Necessity for erection of custom house and warehouse.

9. It is unnecessary to report, after the Statement now made, how desirable it is that the Custom House and Warehouse, as suggested in my Despatch No. 108 of the present year, should be erected with as little delay as possible, as the saving of the Expense incurred for Rent, being now as already stated £1,100 per Annum for Warehouses alone, would contribute very materially towards this object, independant of the convenience, which the Government and the Merchants would derive from the circumstance of the Goods in Bond being at hand and on one spot.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Report by board *re* assistant to keeper of bonded stores.

PROCEEDINGS of a Board appointed by a letter from the Colonial Secretary, dated 11th November, 1828, to enquire and report as to the necessity of the appointment of an Assistant to the Keeper of the Bonded Stores, as recommended by the Collector of Customs.

1. To enable them to form an opinion on the point submitted for their consideration, the Board proceeded to enquire into the extent and encrease of the Duties, which have devolved on the Keeper of the Bonded Stores.

2. From the enquiries made and the statements with which they have been furnished, the Board find that the nature of the Duties required of the Store Keeper, for the performance of which he has no other Assistance than that of one Clerk, who is a prisoner on a gratuity of ten pence per diem, is nearly as follows:—

3. On the landing of every consignment of Spirits and Tobacco, it is the duty of the Bonded Storekeeper to guage and ascertain the Strength of each Cask of Spirits, to weigh each Package of Tobacco, and to forward a return signed by himself and one of the Landing Waiters of the Marks, Number and Contents of each, specifying the Strength of the Spirits for the information of the Collector. He has then to mark each Cask and Package with the Custom House Number, to see it properly Housed in some one of the Warehouses, and to enter the several particulars of each in his ledger. A distinct Certificate of the particulars of each and every Cask and Package is afterwards made out, and, on being signed by him, delivered to the Proprietor or Consignee.

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Report by board *re* assistant to keeper of bonded stores.

4. On a Warrant being addressed to him by the Collector, authorising the issue of Spirits or Tobacco, it is the Duty of the Storekeeper to compare the particulars of each Cask and Package, as specified in the Warrant, with his Register, and, if he finds it correct, to attend personally at the Store where the same is deposited, and to Witness the delivery. It not unfrequently happens that some of the Casks or Packages, the most difficult of access, have been required by the Proprietor: the Removal of these Wanted is often, therefore, unavoidably attended with much labour and loss of time. When the delivery has been effected, each cask and Package issued is regularly written off in his Register, as having been delivered.

5. At the end of each Month, the Bonded Storekeeper has to make up, in Duplicate, a Statement of all Receipts and Issues during the month, specifying the Remains in Store on the first and last day of the same, for the information of the Collector, and as a Voucher to verify the Collections of the latter during the Month.

6. The Storekeeper has besides to inspect, from time to time, into the security of the Stores, and the state of the Casks and Packages placed under his charge, and, in case of any of them requiring repairs, he has to attend in Person till the operation is completed.

7th. The duties and responsibility of the Storekeeper have, the Board find, greatly encreased since the date of his taking charge. At that time he states the Spirits in Bond consisted only of 231 Casks or Cases, containing 20,508 Gallons and 142 Packages of Tobacco, weighing 13,454 lbs., which were deposited in two Stores; at the commencement of this Month, the Spirits consisted of 2,966 Casks or Cases, containing 172,473 Gallons, and the Tobacco of 3,584 Packages, weighing 300,061 lbs., for which it has been found necessary to provide no fewer than *Sixteen Warehouses* situated in seven different parts of the Town, some of them upwards of a Mile from each other.

8. As none of the Store-houses are permitted to be opened, excepting in his presence, and as it is stated by the Store Keeper that it occurs almost daily that every Store has to be opened, either for the receiving or the delivery of Spirits or Tobacco, it is obvious that this part of his duty alone must require much exertion on the part of the Storekeeper, and necessarily occupy the greater portion of his time; and, as only one Store can be attended to simultaneously, that it must be impossible to avoid occasioning inconvenience to the Public, by delay in complying with applications to remove or enter either the one or other of these Articles.

9. On mature consideration, therefore, of the heavy and increased duties which have devolved on the Storekeeper, as above detailed, the Board have no hesitation in stating that they coincide fully in the opinion, expressed by the Collector of Customs, that it is physically impossible for any one individual to attend satisfactorily to the demands of the Public, and at the same time to fulfil the various other duties of the Storekeeper, and that it appears to them indispensable that a Competent and trustworthy Person should be appointed to assist him in their performance; and they cannot but view it as very creditable to Mr. North that, by his great exertions, he has been able to carry on these duties so long, without having given cause for more complaints than have arisen.

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Report by board *re* assistant to keeper of bonded stores.

10. In stating this opinion, the Board have fully weighed the Expense, which the appointment recommended will add to those connected with the Warehousing of Spirits and Tobacco, which are already so considerable; the Expense of Warehouse Rent alone, amounting, as they are informed, at present to £1,100 per Annum, while further Store Room is still required.

11. It may perhaps therefore not be considered Irrelevant for the Board to venture to suggest, as a means of meeting this Expense, that Warehouse Rent at the rate of Sixpense a day for every 1,000 Gallons of Spirits, and one penny a day for every 1,000 lbs. of Tobacco, should be charged before delivery, on all Spirits and Tobacco respectively, for the time they may have been deposited in the Bonded Stores; and so in proportion for a greater or less quantity.

12. These Rates would apply equitably to every description of Casks and Packages, in the proportion of their quantity and value, and would admit of exact and easy calculation.

The Annual Produce of the charge for Rent at these Rates on the Spirits and Tobacco in Store at the beginning of the present Month may be estimated as follows:—

On 172,473 Gallons of Spirits for 365 days at 6d. per 1,000 Gallons	£1,573	16	3
On 300,061 lbs. Tobacco do at 1d. per 1,000 lbs.	456	6	10
	£2,030	3	1

say about £2,000 pounds; and, as this amount would be little more than sufficient to cover Store Rent and the expense of the Bonded Store Branch of the Customs, the Rates proposed could not be considered unreasonable, while at the same time it would remain optional with the holder to avoid the Charge altogether by paying the duty and removing the Spirits and Tobacco to his own Warehouse.

Should this suggestion be approved, the Board submit that to carry it into effect, it would only be necessary to Publish a Government Notice, apprising the Public that these Rates would be charged from the 1st January next, so as to give time to such of the Proprietors of Spirits and Tobacco, as might wish to avoid incurring the Expense of Warehouse Rent, to pay the duty and effect the removal.

WM. LITHGOW.
WM. DUMARESQ.
JAMES BUSBY.

Sydney, 17th November, 1828.

[Enclosure No. 2.]

Notice *re* charges on spirits and tobacco in bonded warehouses.

GOVERNMENT NOTICE.

Colonial Secretary's Office, 28th November, 1828.

WHEREAS the charge of one Half per Cent., which has been heretofore enacted on all Spirits lodged in the Bonded Warehouse for the payment of Duty, has been discontinued, and it is expedient in lieu thereof to establish certain Rates of Warehouse Rent on all Spirituous Liquors and Tobacco so lodged with the view of covering the great Expense, now necessarily incurred by the Colonial Government for the Rent of Cellars and Warehouses, His Excellency the Governor is pleased to give notice, That, from and after the 1st day of January next, the following Rates of Warehouse Rent shall

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be charged for all Spirituous Liquors and Tobacco, which shall then remain or be thereafter lodged in any Cellar or Warehouse, belonging to or hired by Government, Vizt.:

Notice *re* charges on spirits and tobacco in bonded warehouses.

For Spirituous Liquors, at the Rate of one Shilling and three pence per Ton of 252 Gallons, Wine measure, for any period not exceeding one Week; and at the rate of one Shilling and three pence per Ton per Week for any longer time.

For Tobacco, at the rate of Six pence per ton for any period not exceeding one Week, and at the rate of Sixpence per Ton per Week for any longer time.

And notice is hereby further given that the Warehouse Rent, calculated according to the Rates above stated, must be paid before any Cask or Package can be delivered by the Warehouse Keeper.

By His Excellency's Command,

ALEXANDER McLEAY.

[Enclosure No. 3.]

Return of extra tide waiters.

RETURN of the Number of Extra Tide Waiters, employed from the 1st of May to the 31st October, 1828, inclusively, shewing the Number of Vessels that have required Tide Waiters on board during each Month, also the amount paid.

Months.	No. of Vessels.	No. of extra tide Waters.	Amount paid. £	s.	d.
May	14	12	63	16	0
June	16	14	44	18	0
July	24	16	94	2	0
August	21	14	88	0	0
September	21	11	80	0	0
October	23	13	86	14	0
		Total	£457	10	0

F. ROSSI, Acting Collector.

Custom House, Sydney, 10th November, 1828.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 147, per ship Ellen.)

Sir, Parramatta, 31st December, 1828.

Revision of scale of prices for work by government establishments.

It having been found that the Scale of Prices of Work performed by the Government Establishments, which accompanied my Despatch of the 14th of March, 1827, No. 42, was fixed at too high a rate, I thought it advisable to reassemble the Board in order that they might reconsider the subject and again report on it.

This was accordingly done, and I have now the honor to transmit for your consideration the enclosed Copy of the revised Proceedings of the Board, which I trust will be approved, having in the mean time directed that the New Scale No. 1, annexed to the report, shall be adopted in the calculation of the Expense of the Works to be undertaken by Government.

I beg to refer you to Paragraph No. 5 of the Report, pointing out that the error, into which the Board was led in framing their

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Neglect to transmit priced invoices from England.

former Estimate, arose from the Articles having been sent out without any Statement of the Cost Prices. It was therefore requested and I now repeat my request, that "Priced Invoices" as I believe they are termed, may be forwarded with the Articles by the Colonial Agent, as the Persons who have sent out the supplies have not attended to the directions which I conclude he gave them in this respect.

I have, &c.,

RA. DARLING.

[Enclosure.]

Report of board on scale of prices.

PROCEEDINGS of a *Board*, appointed by His Excellency the Governor's Minute No. 74 of 26th June last, to reconsider the Estimate of the Expense of Work and Labour performed by Convicts in the employment of Government as reported upon by a Board on the 12th March, 1827, and further to ascertain the usual current price of Workmanship and Materials in the Colony, to serve as a Check on the Proposals of Persons desirous of entering into Contracts to execute Public Works or Buildings.

1. The Undersigned, having taken into consideration the Estimate of the Expense of Convict Labour, which in the Report of March, 1827, was rated as equal to 1s. 3d. a day except in the Penal Settlements, are led to consider this Expense to have been considerably over rated.

Value of convict labour.

2. According to a calculation furnished by the Deputy Commissary General, the actual average Expense, which the maintenance and Clothing of each Convict cost to the Government, is no more than £13 6s. 6d. a year, and considering that a portion of the Labour, not only in the Penal Settlements, but in almost every situation of the Colony where Public Works are carried on, is furnished by Convicts, whose maintenance, whether employed or not, must fall as a charge upon the Public, the Board are of opinion that Ten pence a day or £15 4s. 2d. per annum will be sufficient to cover every Expense fairly chargeable to the Department of Public Works, including both the Maintenance and Superintendence of all the Convicts who are retained for the Service of that Department in the settled Districts of the Colony; and they accordingly recommend that this rate should in future be adopted in making up the Estimates.

Cost of timber.

3. On a revisal of the Estimate of the actual cost of Timber procured by the labour of Government Establishments, the Board do not find reason to propose any alteration in the average rate of 1d. per running foot of all kinds and scantlings, as proposed in the former Report. At the same time, they beg to remark that not only the rate, but the expense of labour and of Materials procured by the labour of Convicts, can only from the nature of the case be considered an approximation to the actual cost of the same, the Number of Convicts, necessarily retained in the Service of Government and who must be maintained whether employed or not, being subject to constant fluctuation.

Miscellaneous charges.

4. The Board after reconsidering the Expense of Mason Work, procuring Laths, Shingles, etc., by Government Establishments, have proposed some slight modification of the Rates at which they

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have been entered in the Estimates since March, 1827, and at the same time extended the scale to a greater number of Articles.

Cost of imported articles.

5. By a comparison of the Prices at which Articles sent out by Government to this Country, but without any lists of their Cost, have been rated in preparing the Estimates for Public Works and Buildings since the date of the Report of last year, with the actual cost Prices as given in the Invoices of similar Articles, which have been obtained from England by Private Individuals, the Board find that the Prices adopted in preparing the Estimates have from want of the necessary information been in several instances rated too high.

6. From the "data" afforded by these Invoices, the Board have been enabled to frame a Scale of the estimated Cost to Government of several of the principal Articles which are supplied from England, and drawn from the Commissariat Stores for carrying on the Public Works, herewith enclosed No. 1. In framing this Scale, they have added such an advance to the Invoice prices, as appeared sufficient to cover the Freight and Charges of sending them out, so that it is probable the Rates now proposed are still rather high than otherwise; more particularly when it is considered that Government, purchasing on an extensive Scale, must be able to procure Articles much cheaper than Individuals requiring only a limited supply.

Estimates for public works.

7. Estimates of Public Works, proposed to be executed by Government means, should, they would therefore recommend, till more correct data can be obtained, be in future calculated according to the Rates in the Scale No. 1 herewith submitted. Many Articles required for the purpose of Building are no doubt omitted in this List. Those most frequently required have however been priced, and, when the Value of any other Article requires to be inserted in the Estimates, it ought to be stated at its fair average Value in so far as the same can be ascertained.

Prices current for labour and materials.

8. As the result of their enquiries to ascertain the usual current price of Workmanship and Materials in the Colony, to serve as a certain degree of check on the Proposals of Contractors, the Board beg leave to enclose the accompanying Scale No. 2. This Scale has been prepared in the Form which a Surveyor would adopt, were he called upon to give in a Valuation of a Building or Work executed, assuming that the Workmanship and Materials are of unexceptionable quality without any thing superfluously elaborate or ornamental in the Work.

Scale of average prices.

9. It need hardly be stated that the cost of any Work or Building must depend greatly on the high finish or otherwise, required by the specification; but the prices fixed upon are considered, neither the highest or the lowest, but those which would be charged for Work executed in a plain and substantial manner, and such as is generally required and expected in respect of Works and Buildings executed for Government.

WILLIAM LITHGOW, Auditor.
WILLIAM DUMARESQ, Director of Works.

Sydney, 12th November, 1828.

Approved:—RA. DARLING.

[Appendix No. 1.]

[*This was a lengthy statement of all materials required in building such as nails, locks, hinges, timber, etc.*]

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Scale of prices current for labour and materials.

[Appendix No. 2.]

SCALE of the usual Current Prices charged in Sydney for Workmanship and Materials in executing Buildings or Repairs under Private agreement.

Description of Work.	Particulars.	Prices.
Digging	Excavation of Rock	14s. per Cubic yard.
	do Earth, Clay, Gravel, etc.	1s. 6d. do
Masonry	Rough Stone Walling for Foundation	12s. per perch.
	Rough Axed Walling	14s. do
	Chisselled do	25s. do
	Flagging	7d. per Foot.
Bricklaying	Brick Walling	£12 per rod.
Plastering	Plastering	2s. per yard.
Carpentery	Roofing	£5 per Square.
	Flooring	£3 15s. do
	Doors and Framing	£6 do
	Windows and Glass	4s. per Foot.
	Skirting	1s. do
	Wainscot Framing	2s. 6d. do
	Mantle Pieces	30s. each.
Plumbing and glazing	Painting	2s. per yard.
	Lead and Iron Work	7d. per pound.

Average value of maintenance of convict.

[Appendix No. 3.]

STATEMENT of the Average Value of the Rations and Slop Clothing issued to a Prisoner of the Crown in the employ of Government for the Year 1828.

410½ lbs. Bread	@ 2d. per lb.	£3	8	5
410½ lbs. Fresh Beef	@ 3½d. ,,	5	19	8¾
91¼ lbs. Maize Meal	@ 9s. per bushel	0	15	2½
45 Pints of Pease	@ 9s. do	0	6	7½
11 6/16 lbs. of Sugar	@ 4d. per lb.	0	3	9½
22 7/16 lbs. of Salt	@ 1d. do	0	1	10½
11 6/16 lbs. of Soap	@ 5d. do	0	4	8¾
		£11	0	4½
2 Suits of Slop Clothing		2	10	0
Per Annum		£13	10	4½

A similar Statement to this was Submitted to His Excellency the Governor about the Close of last year, when I then calculated that the Victualling of a Prisoner of the Crown in Government employ amounted to £10 16 6
And his Clothing 2 10 0

per Annum £13 6 6

As a General Average I consider this latter to be the most accurate, the other being a little enhanced by the recent scarcity of Grain, and the more expensive commutations it became necessary to adopt to reduce the consumption of that Article.

JAMES LAIDLEY, D.C.G.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Ellen.)

Sir, Parramatta, 31st December, 1828.

Despatches acknowledged.

I have the honor to acknowledge the receipt of the several Despatches and Letters, as dated in the Margin,* which arrived

* *Marginal note.*—"Eliza"—Secretary of State: No. 8, 22 June, 1828; No. 9, 22 June, 1828; No. 10, 26th June, 1828; Separate, 12th June, 1828. Under Secretary of State: 22nd June, 1828; 24th June, 1828; 25th June, 1828; 26th June, 1828; 28th June, 1828; 25th March, 1828. "Royal Sovereign"—Secretary of State: Circular No. 2, 31 May, 1828; No. 13, 15th July, 1828; No. 14, 16th July, 1828; No. 15, 19th July, 1828; No. 16, 27th July, 1828; No. 17, 31st July, 1828; Separate, 31st July, 1828; No. 18, 31st July, 1828; No. 19, 1st August, 1828; No. 20, 4th August, 1828; No. 21, 5th August, 1828; No. 22, 7th August, 1828; No. 23, 17th August, 1828; No. 24, 19th August, 1828; Circular, 19th August, 1828. Under Secretary of State: 3rd August, 1828; 18th August, 1828; 22nd August, 1828.

by the Ships "Eliza" and "Royal Sovereign" respectively on the 18th November last and 24th inst., and I shall do myself the honor to reply thereto, as soon as circumstances shall permit. 1828. 31 Dec.

I have, &c.,
RA. DARLING.

ASSIGNMENTS OF CONVICTS.* 1829.

DURING the year 1829, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were written to the under secretary of state for the colonies, with dates as under:— Assignments of convicts.

Date of letter.	Ship's name.	No. of convicts.
13th March ...	Waterloo	180 Male.
6th April	America	176 ,,
16th April	Sovereign	119 Female.
20th May	Norfolk	200 Male.
23rd May	John	188 ,,
18th June	Layton	190 ,,
13th July	Lucy Davidson	101 Female.
6th August ..	Morley	200 Male.
20th August ..	Claudine	180 ,,
24th August ..	Sarah	200 ,,
29th September	Dunvegan Castle	180 ,,
8th October ..	Katherine Stewart Forbes	200 ,,
4th December.	Mermaid	200 ,,
28th December.	Nithsdale	184 ,,

SIR GEORGE MURRAY TO GOVERNOR DARLING.

THE following despatches.† written in the year 1829, have been omitted:— Despatches omitted.

Despatch dated	numbered	Transmitting
8th August ..	128	papers *re* errors in sentences on Lawrence Woods and John Kelly recorded as "for life" instead of "for seven years."
10th August ..	130	pardon for Matthew Miller.
11th August ..	131	do for Esther Shaw.
12th November.	—	instructions *re* passage for wife and family of Robert Morrison, convict.

UNDER SECRETARY OF STATE TO GOVERNOR DARLING

THE following despatches.† written in the year 1829, have been omitted:—

Despatch dated	Transmitting
31st January	authority for pardon for James Connell.
3rd February	request from Andrew O'Brien for reduction of sentence from life to seven years.
1st July	application for indulgence for convict Charles Stevens.
18th July	instructions *re* passages granted to wives of convicts.
20th August	application for indulgence for convict Edward Simcock.
16th September	do for convict — Wright.

* Note 1. † Note 2.

1829.

Governor Darling to Secretary of State.

Despatches omitted.

The following despatches,* written in the year 1829, have been omitted:—

Despatch dated	numbered	Transmitting
29th January .	9	monthly return of troops for November, 1828.
3rd February.	13	proceedings of executive council, July-December, 1828.
24th February.	24	return of state of crime and punishment for 1828.
21st March ...	33	monthly returns of troops for January and February, 1829.
22nd April ...	45	printed collection of laws and ordinances promulgated in the year 1828.
25th April ...	50	monthly return of troops for March, 1829.
30th May	67	notification *re* transmission of public accounts for year 1828.
3rd June	71	volume of acts of council, proclamations and government orders for "past year."
4th June	72	monthly return of troops for April, 1829.
6th July	84	do for May, 1829.
13th August ..	96	do for June, 1829.
12th October .	111	proceedings of executive council, January-June, 1829.
14th December.	122	monthly return of troops for September and October, 1829.

Also various despatches transmitting series of newspapers and the "Crown Book" for 1828.

Sir George Murray to Governor Darling.

(Despatch No. 76, per ship Waterloo.)

1 Jan.

Sir, Downing Street, 1st January, 1829.

Acts submitted for approval.

His Majesty having had under his consideration five Acts passed by yourself, with the advice of the Legislative Council of New South Wales in the Months of February, April and May, 1827, intituled:

"No. 1. An Act to amend an act of the Governor and Council, intituled 'an Act for repealing the Laws now in force relative to the Licensing and regulating of Public Houses, and for the better regulating the granting of Licenses for the sale of Ale, Beer, Wine, Spirits and other Liquors in New South Wales in future.'"

"No. 2. An Act for preventing the mischiefs arising from the printing and publishing Newspapers and Papers of a like nature by persons not krown; and for regulating the printing and publication of such papers in other respects, and also for restraining the abuses arising from the publication of blasphemous and seditious libels."

"No. 3. An Act for imposing a duty upon all Newspapers and papers of a like nature printed to be dispersed and made public."

"No. 4. An Act to enable the Proprietors of the Banking Establishments or Company, carried on in the Town of Sydney in the Colony of New South Wales under the name style and Firm of the Bank of Australia, to sue and be sued in the name of the Managing Director of the said Bank for the time being and for other purposes therein mentioned."

"No. 5. An Act for preventing the printing and publishing of Books and Papers by Persons not known."

Confirmation of certain acts.

I have received His Majesty's Commands to signify to you that He is graciously pleased to confirm and allow the whole of these Acts, with the exception of the Act, numbered 3 in the preceding List for imposing a Stamp Duty on Newspapers. This Act, having never been permitted to go into operation,† might, perhaps, be considered as virtually repealed. But, as it was passed by the Colonial Legislature, it appears necessary, with a view to regularity, that His Majesty's decision upon it should be conveyed to you in the usual and formal manner. I am, therefore, to inform you that His Majesty has been pleased to disallow this Act, because a Tax, amounting to Four pence on each Newspaper, has

Disallowance of stamp act.

* Note 2. † Note 152.

appeared to Him too high a duty to be levied for purposes of mere Revenue under existing circumstances in New South Wales, and because, in the original enactment of this Law, very serious informalities appear to have occurred. 1829. 1 Jan. Disallowance of stamp act.

This subject has been fully considered in my former Despatches to you, but it has appeared to me convenient that His Majesty's decision upon this series of Acts should be conveyed to you in this separate form, and detached from all extraneous subjects.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 1, per ship Magnet.)

Sir, Government House, 1st January, 1829.

In pursuance of the 30th Section of an Act of the British Parliament, entituled the New South Wales Act, 4th Geo. 4th, Chap. 96, I do myself the honor to transmit for His Majesty's approbation four Copies of eight laws or ordinances which have been passed by the Legislative Council and which are entituled as follows, vizt.:— Acts of council submitted for approval.

"An Act for enabling the Governor or Acting Governor of New South Wales to grant Letters of Denization to such Foreigners as may arrive in the Colony, with a recommendation to that effect from His Majesty's Principal Secretary of State for the Colonies."

"An Act to regulate the keeping and carriage of Gunpowder imported into the Colony of New South Wales."

"An Act for enabling Persons holding certain Public Offices in New South Wales to take Apprentices to serve under them, and their successors in Office, and for regulating all matters relating to Masters and Apprentices."

"An Act for the better regulation of Servants, labourers and work people."

"An Act for the more effectually preventing Persons from purchasing or receiving clothing, Bedding or Rations from Convicts."

"An Act to authorize the erection of Pounds, and for regulating the impounding of Cattle."

"An Act to regulate the dividing Fences adjoining lands."

"An Act to regulate the licensing of Auctioneers, and the collection of duties on Property sold by Auction."

"An Act for regulating Places of Public Exhibition and Entertainment."

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 77, per ship Waterloo.)

Sir, Downing Street, 2nd January, 1829. 2 Jan.

I have the honor to acknowledge the receipt of your despatch No. 84 of the 19th of June, representing that, under the present circumstances of Van Diemen's Land, as reported to you by Lieutt. Governor Arthur in a letter of which a copy accompanies your despatch, you had deemed it impossible to withdraw any part of the Force from that Island, and consequently had been compelled to delay carrying into effect the orders, which you had received for sending the 40th Regiment to India. Detention of 40th regiment in Tasmania.

1829. 2 Jan.

Detachments of military sent to colony.

As it appears from a communication received from the General Commanding in Chief, to whom you have addressed similar representations, that, since those representations were made, various Detachments of the 39th and 57th Regiments, in all 220 Rank and File, with a due proportion of Officers, together with the Service Companies of the 63rd Regiment, consisting of 360 Men, are already arrived at or on their way to Sydney, there no longer exists the same urgent necessity for detaining the 40th Regiment at New South Wales; and His Majesty, therefore, confidently expects, if you shall not have already taken measures for that purpose, that you will see the necessity of adhering closely to the arrangements, which you have been ordered to carry into effect for the relief of the Troops in India, by causing the 40th Regiment to proceed forthwith to the Destination for which it was originally intended, and where, it is understood, the services of this Regiment are, at this moment, very much required.

40th regiment to sail for India.

I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.
(Despatch No. 2, per ship Magnet.)

Sir, Government House, 2d January, 1829.

In forwarding the accompanying letter, with its enclosures, addressed to you by E. S. Hall,* the Editor of the "Sydney Monitor," lately convicted in the Supreme Court of a Libel* on the Archdeacon, as will be seen on referring to the Sydney Gazette of the 13th of January last, which contains the Judgment of the Court as pronounced by *Mr. Justice Dowling*, I can only express my regret that your time should be taken up by the representations of a man so utterly regardless of truth and so totally unworthy of attention.

Conviction of E. S. Hall for libel.

The representations in Hall's letter correspond in character so exactly with a statement, he has lately published in his Paper of the case of "Sudds and Thomson," that I cannot do better than transcribe the observations on that statement, which appeared in the *Gazette*, being equally applicable to both, and which are to the following effect:—

Criticism in *Gazette* of article in *Monitor*.

"With respect to the Monitor, his arguments are founded on a tissue of gross falsehoods, the mere emanation of the Editor's prolific brain, and so far are unworthy of reply. If his premises were correct, so would be his conclusions; but the entire article is a romance, concocted for the sole purpose of misleading the Public, and to gratify a feeling of hostility towards the Government."

* Note 153.

1829.
2 Jan.

I will not, however, close my letter without making a few remarks on that which Hall has addressed to you.

Alleged letters to colonial secretary.

In the first place, the Colonial Secretary never received any such letters as those of the 3rd and 17th of November last, Nos. 5 and 6, or were any such ever written to him. Two letters were published in the *Monitor*, of which the enclosures may be copies; but it was impossible for the Government to take any notice of them. Some letters in reply, however, appeared soon after in the Sydney Gazette, and I beg to refer you to one in that Paper (of the 19th November, 1828), under the signature of "Veritas,"* which shows that the several matters brought forward in Hall's letters are totally destitute of foundation.

Allegations *re* land grants by R. Darling.

With respect to my lavishing lands on my friends and relations, as he impudently asserts, knowing it to be untrue, I need, Sir, only request your attention to my Despatch of the 24th of November last, marked "Separate," which furnishes a complete refutation of that assertion.

re aborigines;

As to the interesting tale of O'Donnell and the Aborigines, I assure you, Sir, I never even heard the man's name (and conclude the whole is a mere fiction) until I saw Hall's letter, nor was any complaint or application ever made to me by or on the part of these expatriated aborigines, or am I now aware of the existence of any such tribe as that to which he alludes. The purpose of the Editor of the Monitor was however answered by his publishing a story calculated to place the Government in an odious point of view, being aware that few people had an opportunity or would be at the trouble of ascertaining the fact.

and *re* town allotments.

With regard to the Woolloomoolo Allotments, Elizabeth Bay and the Government Convicts' Garden, that is Hyde Park, it will be sufficient, Sir, to request your attention to my despatch No. 46, dated so far back as the 26th of March last year, which explains fully what has been done, and what is proposed, in the respective cases.

I shall abstain from any further reply to the assertions and insinuations contained in Hall's letter, observing generally that the matters to which he alludes are all of the same character as those on which I have remarked. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. E. S. HALL TO SIR GEORGE MURRAY.

Sir, Sydney, N. S. Wales, 17th Novr., 1828.

Transmission of correspondence.

I beg leave to lay before you a correspondence between Mr. McLeay, the Secretary for this Colony, and myself, not doubting but you will render me such relief, as you think the

* Note 154.

1829. 2 Jan.

hardship of my case may merit at your hands. Having, in the enclosed letters, entered so very fully into the merits of the subject of complaint, now submitted to your consideration, I need not in this epistle repeat the arguments, which go to show the rigorous and inequitable conduct of Governor Darling to me, nor that the manner, in which His Excellency dispenses the Crown Lands of this Colony in General, is not such as is best calculated to promote the peace, loyalty, and good Government of the people of this distant Colony.

Allegations *re* administration by R. Darling.

Alleged maladministration of land grants.

I have, in my letter to the Colonial Secretary of the third Instant, mentioned two or three individuals strongly connected with His Excellency's Government, who have received indulgences from the Crown in Land on a scale amounting almost to magnificence; as the same at least is rated by the inhabitants of a frugal Colony, whose soil is generally poor, and whose seasons are the most irregular in the world, being as similar to the extreme climate of Algoa Bay, in respect of flood and drought, as it is parallel with that settlement in latitude. Judge then, Sir, the mortification our adult youth must feel, when they find their countrywomen forming connexions with the emigrant and freed Colonists as wives and concubines, while themselves, from obtaining no land or land in inadequate quantities, are unable to marry. Mr. Commissioner Bigge admits this fact, but, as is usual with him, does not develop the cause. The fact is, Sir, the young men of this Colony have feelings just the reverse of those of the Lower Orders in England and Ireland. The circumstances of the parents of most of them having come to the Country in bondage, so far from making them humble, causes them to be the proudest people in the world. They are high-minded even to arroganey. The circumstance of being *free* is felt by them with a strength bordering on a fierce enthusiasm. Nothing can induce them to enter into the army, nor take office in the police; and few of them settle in our Towns. There seems to be an hereditary hatred among them to all professions. A few indeed were originally apprenticed as mechanics, but generally they prefer to indulge their independence in the wilds of their Native forests, where they can brood over their discontents without restraint or contradiction. There they become humble assistants to our large graziers, and, among the rest, to those numerous civil and military officers, who, to full pay and large salaries, occupy the choicest lands in the Colony in quantities equal to a whole parish.

Characteristics of descendants of convicts.

Proposed returns *re* land grants.

Permit me, Sir, also to suggest to you, as you value the dependency of these Colonies on the Mother Country, the expediency of your calling for returns of all alienations of land from the

1829. 2 Jan.

Crown, and also of the names of all persons *to whom land has been refused,* and of your directing the same to be forwarded to you *annually,* first, however, *being published in the Sydney Journals for colonial comment.* For, if such returns are forwarded to you, Sir, without first being published in the Journals here, they will be of little service. It is only by the remarks and criticisms of the public Press of the Colony, that your judgment, Sir, on such annual returns could be sufficiently informed to ascertain how far the Governors here had exercised the important prerogative intrusted to them by their Sovereign, namely, the prerogative of alienating the Crown Lands to whomsoever they think proper, not excluding their own Kindred.

Necessity for public criticism.

Effects of administration of R. Darling.

The rigorous administration of Lieut. General Darling, and his want of impartiality in distributing the indulgencies, as proved in my case, have tended to weaken the attachment of all classes here to the Mother Country, particularly the Australian born male adults. And I know of no method of preventing this evil, as well as those which might arise on the other hand, by too lavish a distribution of the Crown Lands to all applicants indiscriminately than the one now suggested to you Sir by me.

Advantage of proposed policy.

Should you perceive the policy of directing that all alienations of land, that have been made in New South Wales, and that may be made by the present Governor, shall be published annually for general information, together with the names of all persons, who have been granted land (*in fee,* or to purchase, or to rent) as that which contains the names, class, and condition in life of those who have been refused. And I feel confident that a complete insight into the said Schedules will cause His Majesty's Government to regret that such vast patronage and influence, as giving away and letting the lands of the Colony, should hitherto have been so little subjected to the scrutiny of His Majesty's Secretary of State.

Board appointed to receive applications for land or convicts.

A Board for the dispensing of land and assigning of Convict Servants was instituted by His Excellency Governor Darling, by which the whole Colony became subjected to the control of three or four Gentlemen.* One of the Members was His Excellency's Private Secretary; another the Lieutenant Colonel of the Buffs (then Lieutenant Governor), and the third Captain Dumaresq, a relative of His Excellency. Every person applying for Land or servants was obliged to reveal his private affairs to these Gentlemen. No Governor before required the Colonists to submit to so inquisitorial an examination. Sir Thomas Brisbane assigned the convicts to all who applied for them, leaving it to the Magistrates of the District to see that the said Servants were

* Note 155.

1829. 2 Jan.

System under Sir T. Brisbane.

properly treated. Under him, the first that applied were first served, without regard to rank or influence. The Settlers were allowed to return their Servants and take fresh ones (if any were left in the convict barracks) as best suited their interests. And the late Governor found the interests of husbandry, and the Public Peace and Content, so highly promoted by Major Goulburn's accommodating arrangement, that any little extra trouble and expense, it might have occasioned to the Public Officers, was well repaid. But there could have been no extra trouble in fact, because the expense of Clerks in the convict barracks and in the Colonial Secretary's Office have not been diminished under General Darling's new plan, but greatly increased. When His Excellency, the present Governor, altered the system of all the Public Departments, it created great surprize among the reflecting part of the Colonists, because His Excellency had been at that time so very short a time in the Colony that it was impossible the new arrangements made by him could be more than doubtful experiments. Experience proved they were unwise. They soon gave rise to universal discontent from one end of the colony to the other, besides multiplying the public expenses, as you will perceive, Sir, by comparing the revenue account of eighteen hundred and twenty four with that of Eighteen hundred and twenty seven.

Effect of system introduced by R. Darling.

The Land Board gave rise to the grossest frauds. Persons without a shilling of property, by procuring a wealthy friend to deposit for a short time a sum of money in either of our Banks in their name, the applicant on showing the receipt of the Cashier to the Board was ordered land in proportion either *in fee* or to purchase. Civil Officers, who never go outside of Sydney, have thus become large land-holders, while industrious emigrants newly arrived, and the Australian born adults, whose sole property consisted of a plough, a team, a few pigs, and personal skill and ability to make use of them, have been greatly annoyed at what they conceived to be the illiberal treatment of the same Board. In short, Sir, the endless delays and perplexities of the Land Board are beyond the bounds of a letter for me to describe.

Request for indulgences by E. S. Hall.

In my own case, Sir, I have simply to request that you will be pleased to direct His Excellency the Governor to consider the circumstance of my conducting the independent Press of Sydney no bar to any indulgences, I may reasonably require in common with the Government Printer or other free Colonist; but rather the contrary, so that, if a preference be to be given, it should be allowed to Colonists like myself whose labours are of real benefit to the Colony and of importance to you, Sir, and other of His

Majesty's Ministers, in furnishing you with information of the State of the Colony of a nature, which it would be impossible for you to obtain by any other means *at any rate of cost.* 1829. 2 Jan.

I have, &c.,
E. S. Hall.

[Sub-enclosure No. 1.]

Mr. E. S. Hall to Colonial Secretary Macleay.

Sydney, 17 Octr., 1828.

Sir,

Agreeably to the Government Notice* of date the 16th Instant, published this day in the Sydney Gazette, I beg leave to offer to rent under lease, or on such terms as may be prescribed by the Government, five thousand acres of the unlocated Crown Lands contiguous to my Grant and Purchase of Lands at Lake Bathurst, each consisting of one thousand acres. Application to lease land.

I have, &c.,
E. S. Hall.

[Sub-enclosure No. 2.]

Colonial Secretary Macleay to Mr. E. S. Hall.

Colonial Secretary's Office, 23rd Oct., 1828.

Sir,

In reply to your letter of the 17th Instant to be allowed to rent land, I am desired by His Excellency the Governor to inform you that no application of this nature from you can be entertained by the Government. Refusal of application.

I am, &c.,
Alexander McLeay.

[Sub-enclosure No. 3.]

Mr. E. S. Hall to Colonial Secretary Macleay.

Sydney, 27th October, 1828.

Sir,

I had the honor to receive in due course your letter of the 23rd Instant, in reply to mine of the 17th Instant, in which you state that you are directed by the Governor to inform me that no application of the nature of renting land can be entertained by this Government from me. Letter acknowledged.

I have maturely considered your reply, and, if I understand it right, I must of necessity submit it to H.M. Secretary of State for the Colonies, coupled with a Memorial on the Subject. But, as it is expected of all who complain to the Home Government, that their ground of complaint shall be plain and unequivocal, I have now to request you will do me the honor to state on what ground it is that His Excellency is pleased to exclude me from the operation of the General Government Notice of the 17th Instant, published Officially in the Government Gazette, and containing as it does the following sentences:— Request for explanation of refusal.

"Notice is hereby given that Settlers, in authorized possession of land whether by Grant or by purchase, *will* be *allowed* to occupy the unlocated Crown Lands immediately adjoining their respective possessions, at a rent after the rate, etc., etc., etc." And again, "*Persons desirous* of occupying land under these Regulations *are* to apply by letter to the Colonial Secretary, etc., etc., etc."

I have, &c.,
E. S. Hall.

* Note 156.

1829.
2 Jan.

[Sub-enclosure No. 4.]

COLONIAL SECRETARY MACLEAY TO MR. E. S. HALL.

Sir, Colonial Secretary's Office, 31st Octr., 1828.

Letter acknowledged.

I duly received and submitted your letter of the 27th, referring to mine of the 23rd Instant, in which you were informed (in reply to your request of the 17th Instant to be allowed to rent Land under the New Regulations) that no application from you of that nature could be entertained by the Government, and requiring to know the Grounds upon which you are excluded from the benefit of those Regulations, in order that you might submit the same to His Majesty's Secretary of State.

Reasons for refusal of application.

In reply I am directed to inform you that, if His Excellency considered himself bound to explain the reasons which occasionally induce the Government to withhold indulgence from individuals, it would be sufficient in the present case to state that you are the Editor of the "Monitor," the columns of which Paper bear ample testimony to your endeavours to disturb the tranquillity of the Colony, and to demoralize the community, by treating with disrespect and contempt the clergy and the Established Church, without referring to the instance of your recent conviction for a Libel on the Venerable Archdeacon; These circumstances will enable the Secretary of State, when he receives your Memorial, to judge of the extent of your claims to the attention of Government.

I have, &c.,

ALEXANDER MCLEAY.

[Sub-enclosure No. 5.]

MR. E. S. HALL TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 3rd November, 1828.

Letter acknowledged.

I had the honour to receive your letter of the 31st Ultimo, in which you acknowledge the receipt of my last of the 27th Ult., and in which you state you were directed to inform me "that, if His Excellency considered himself bound to explain the reasons which occasionally induce the Government to withhold indulgence from individuals, it would be sufficient in the present case to state that I am the Editor of the 'Monitor,' the columns of which Paper bear ample testimony to my endeavours to disturb the tranquillity of the Colony, and to demoralize the community, by treating with disrespect and contempt the clergy and the Established Church without referring to the instance of my recent conviction for a libel on the Venerable the Archdeacon; and that these circumstances will enable the Secretary of State, when he receives my memorial, to judge of the extent of my claims to the attention of Government."

Reply to charges.

I now beg leave to reply to the serious charges His Excellency has been thus pleased to bring against me.

It surprizes me and will, I should imagine, be matter of regret with H.M. Secretary of State, when I lay your last letter before him, that, at the moment His Excellency complains of my intemperance as a public journalist in this Colony, he should have commanded you, Sir, to make use of intemperate language towards me. Whenever I make use in my Journal of arguments, which strike His Excellency as being out of the bounds of reason or decorum, I at all events found them on facts, and state them then and there. You, Sir, on the contrary, have made accusations against

1826. 2 Jan.

me, which, while they tend greatly to injure my reputation as a public writer and as a citizen, state no facts which are correct. For the one you do mention is incorrect. I have never been convicted of a libel on the Archdeacon of this Colony. An attempt has been made to procure such conviction indeed, but the proceedings are yet in abeyance; and I have reason to believe, from the opinion not only of my own counsel but of the whole bar (save always the prosecuting Officers of the Crown), that I shall never be convicted of the libel, you appear so triumphantly to reproach me with the conviction of. Since I conducted my journal, the Sydney Monitor, now going on for three years, I have never been found guilty of a libel save once, and that was in the Civil Court, and owing merely to an error of my reporter. But the Public felt the hardship of that case so much as to come forward and discharge the verdict* by public subscription.

Inaccuracy of statements by A. Macleay.

Press career of E. S. Hall.

But, if the conviction you allege had indeed taken place, yet I do not see that His Excellency as Governor is justified in casting my faults in my teeth more than he would the faults of any other Colonist. If I have done a public wrong, doubtless I have or shall be duly punished for it by the Laws. Is His Excellency instructed by H.M. Government to add to the punishment of all persons guilty of misdemeanours (such as assaults and libels) by excluding them not only from necessary Grants of Land, but also from feeding their cattle, by denying them the use of the interior pastures of the Colony? And if he be, is the punishment to stop with the aggressor, or is to be continued to his posterity? I have a son, who has charge of my farming concerns at Lake Bathurst, one hundred and fifty miles in the interior. He is a minor, although better to me than an adult overseer. Will His Excellency give this youth a grant of land in compensation for my outlawry or let him sufficient for his own or his parent's use?

Implied extension of punishment by R. Darling.

The favor of a reply to this question is particularly requested.

Freed Colonists, who, in their younger days and in times that are past, violated the laws so as to be sent here in misfortune, are invited by the General Order lately published (and of which I availed myself) to rent land; and favourable answers have been given to them. Surely, Sir, if I *had* been convicted of a libel on Archdeacon Scott, my fault is not greater than that of others. The crime of libel in a public Journalist, whose very profession compels him to discuss the rectitude and policy of the acts of the Government and of public men, is the crime of a Gentleman, a fault which the purest mind and the most upright patriot need not in fact blush to commit. It may be a reflection on his head, but it is possible that it may do the highest honor to his heart.

Lands leased to expirees.

Crime of libel in journalist.

But, Sir, if His Excellency is so well acquainted with the reports of the trials, which take place in the Supreme Court at Sydney, I have the right to presume he is equally well acquainted with certain proceedings, which have taken place contemporaneously in the same court. I allude to the information of *Rex v. Hall* for a trespass in a pew† in the King's Church of St. James's, Sydney. His Excellency must be aware, from the proceedings in that information, that our three Judges have decided that Archdeacon Scott neither had nor has jurisdiction as ordinary in the King's Church of St. James, which nevertheless he assumed, it not being a Parish Church; and that consequently, in having roofed or decked in my pew in that Church, and caused two police constables to stand at

Dispute *re* pew in St. James' church.

* Note 157. † Note 118.

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the door during divine service with staves, while I and my six daughters were rudely thrust from the door, and compelled to sit on the Communion steps, an illegal and an oppressive act has taken place on the part of the Venerable gentleman. His Excellency must also be aware that it was the publishing of this act of the Archdeacon, and my remarks thereon, which caused the Attorney General (at Mr. Scott's entreaty) to file the ex officio information against me, alluded to, Sir, by you. His Excellency is aware, also, that he himself appointed as my jury seven Military Officers, a class of our Society on whom His Excellency is continually conferring honors and salaries, and the foreman of whom (I mean the jury in the case under consideration) has since been put in the Commission of the Peace, and appointed to a Command; His Excellency, I say, was aware of all these circumstances, and therefore, after he had commanded you, Sir, to cast the libel in my teeth, he ought in justice and candour to have directed you to say at the same time, "His Excellency must acknowledge, however, that Archdeacon Scott's expelling you from your pew during the trial of the right was at all events an unnecessary piece of discourtesy to you, as a man of family, and as a constant attendant on the services of St. James's Church; and also an imprudent and unclerical act, seeing that, in case the right of the pew should after all be found vested in you, the strongest grounds for an action for damages against that high Ecclesiastical Officer would then be furnished to you, a result to be greatly deplored as regards the public tranquillity and the demoralization of the community."

Prosecution of E. S. Hall for libel.

Criticism of Revd. T. H. Scott.

But, as His Excellency did not command you, Sir, to say this, I am led to the conclusion that "disturbing the tranquillity of the Colony and demoralizing the community" is held by His Excellency to take place, not when Officers of State act illegally, but when the parties, who are injured by such illegality, complain thereof in the columns of the "Monitor." I grant, Sir, that the tranquillity of the Colony is disturbed whenever a public wrong is exposed. But as, in the natural world, wind and storm are necessary to the fructification and health of nature, so the disturbance of a stagnant and vicious tranquillity of a civilized Society by the expositions of public wrongs is necessary to the health of the political world. On this principle is founded that palladium of British freedom, a *free Press*, an institution cheerfully awarded to us, and explicitly acknowledged and avowed in Parliament by the late Secretary of State for the Colonies; but the exercise of which, Sir, by you is considered a fault, a fault of such magnitude, too, as to render him, who exercises the right, liable, it should seem, to a kind of outlawry (for am I not a kind of outlaw) when my cattle are doomed to be confined to a certain space of pasture? A late Act of Council commands constables and others to impound live stock, if found on the Crown Lands. His Excellency informs me through you, he will let me no Crown land. I presume, Sir, that, although he has granted the members of your family each a grant of land in her own right, he will not grant my six daughters any? Where then are my cattle henceforward to find food? They must of course be sold, when their number exceeds their present pasture, which is the case already by a considerable quantity. An outlaw, I humbly conceive, cannot be subject to much greater loss and disgrace than this.

Necessity for disturbance of tranquillity by exposure of wrongs.

Virtual outlawry of E. S. Hall.

I respectfully beg, Sir, to be informed whether Mr. Huskisson, when he finally determined on suffering the Press of this Colony

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to remain free, notwithstanding His Excellency's strong and urgent requests to the contrary, he directed the Governor to deny such of the Journalists of New South Wales, as are not in the pay of the local Government, the rights and indulgencies common to all free and freed men? Because, if he did, our Press is virtually not free. Opposition writers here (to use a well-understood term) would then be subject to be punished for their writings without a trial at the caprice of the Governor for the time being, a state of vassalage alike unknown to the law and to Colonial precedent.

Effect of power of governor on journalists.

So far, Sir, from feeling that I, as a Journalist, merit the treatment with which you threaten me, I consider there is no Colonist in New South Wales, from the highest Officer down to the meanest settler, that has rendered more solid services to the country than myself. So well is the principle acknowledged and understood in London, namely, that opposition writers are friends to the State, if men of character, that the late Mr. Perry of the *Morning Chronicle* was in the habit of applying for and of receiving favors from His Majesty's Ministers, the same as any other of the King's subjects. His son has an appointment at this hour in the East Indies. And, although His Excellency General Darling seems to be a total stranger to such liberality on the part of the King's Government, I shall not, in happier times to come, feel the least hesitation in asking favors from this Government, either for myself or family, if I should require them. And I wish you, Sir, well enough, notwithstanding your letter to me, to say that I hope you will live long enough to hold your present situation, so as to be yourself the medium of their communication to me. As His Majesty has not a more loyal subject in New South Wales than myself, so I feel perfectly confident in asserting that, in exposing the impolitic laws and acts of the present administration, I give His Majesty and His Ministers the strongest proof of my desire to render them permanent and solid service. My Journal, the *Sydney Monitor*, whose columns His Excellency is pleased to stigmatize, are a *perpetual commission of Enquiry*, a commission, which is not got up in the dark but in the light, challenging weekly contradiction from the official paid Editor of the Local Government. It cost His Majesty above ten thousand pounds to procure information through Mr. Bigge's Labours, information far inferior, however, in correctness to that which they annually procure from my journal for the small sum of £2 12s.

Services of E. S. Hall in exposure of alleged wrongs.

It greatly surprises me, Sir, that, of all charges, His Excellency should have brought against me that of "demoralizing the community"; Suffer me, Sir, to ask you, who was it that exposed all the licentiousness, which took place at the late races at Parramatta? Permit me, Sir, to ask you, did you ever hear, or from your own knowledge of me should you conceive, that I, whom you represent nevertheless as a public demoralizer, ever moved the President of a dinner that a certain song should be sung, i.e., a song coupled with an adjective, which I cannot defile my paper with! How is it, Sir, that you, who see me as regular in the Church of St. James with my family as you attend there yourself, accuse me of demoralizing, while you yourself publish a written eulogium on the Son of a Nobleman, who (the obscene song expected) was the principal mover and actor in all the late sports? You, Sir, can speak to this point, for you were present when that most improper proposal was made by a Chief Officer of State at a late public

Reply to charge of demoralizing the community.

Episode of dinner at Parramatta.

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Episode of dinner at Parramatta.

dinner. You are aware too, it was proposed by a Gentleman, who was especially selected by this Govt. to supersede in office* another Gentleman, on account of the latter having been guilty of drinking a *political* toast on another occasion. Now, Sir, seeing His Excellency evinces such zeal respecting the morals of the Community, as appears by your charges, did you second the Governor's wishes so far as to inform His Excellency of the language now alluded to? As if was in the presence of a Clergyman too! And, if you did, has that Officer, who used it, been displaced? or, at least, have you had it in Command to deny him also claims to rent land?

Gambling amongst magistrates.

Those magistrates too, who were shut up on the Sabbath day at Parramatta lately, playing at games of deep hazard; games, at which one unfortunate Gentleman was infatuated enough to stake even his sheep on the cast of fatal die, when his money was all gone, exclaiming, with the desperation of a Beverly, "here goes the last ten"! And at which also, a young Gentleman of sixteen, commencing the morning with the sum of £5, came out in the evening with £75? Have the Magistrates, who thus demoralized the community, and also those who subscribed to the cock-pit,† and were present at its sports, been divested of their Commissions? or least have they been debarred, as well as myself, from renting land? Allow me, Sir, also to ask of you, wether the official Journal, whose Editor was aware of all those immoralities, seconded His Excellency's wishes to prevent the demoralization of the Colony by exposing them? Did he risk, as I did, offending his subscribers by denouncing all these vices! I can solemnly assure you, Sir, that I never concealed a public vice or delinquency, for fear of losing *my* Subscribers. I have lost a great number of Subscribers from time to time, because in such matters I always would do my duty as a public moralist in risk of my purse. When a certain party in the Colony felt themselves annoyed at the exposure in my Journal of the oppressions, which in several instances were exercised towards the convicts, they traduced me and my Journal to the utmost; and, amongst other malicious falsehoods, they alleged I sold my paper to Convicts weekly, the latter paying me a shilling which they had pilfered from their employers. I immediately stopped the sale of my journal to all except subscribers, thereby losing the sale for cash of a good many numbers of my Journal. This, Sir, is the way in which *I* have demoralized the Colony, if ever I was guilty of such a course at all.

Policy of E. S. Hall with *Monitor*.

Unfairness alleged in judgment by R. Darling.

When His Excellency did take upon him the Office of Censor, he should, as the Representative of our gracious and impartial Sovereign, have pronounced a fair and equitable judgment, founded on a view of the whole of my writings, not on an insulated article. For instance, His Excellency should have diligently considered those moral and religious essays, for which my Journal is singular, and on account of which many persons will not subscribe to it. One of these essays was published by me so late as the 27th of last September, contemporaneously with the pew affair. And, as a copy of this letter, I am now inditing to you, will be transmitted to H.M. Secretary of State for the Colonies, I shall here take the liberty to copy it *verbatim* for your and his perusal.

[*See leader on page 1339 of "Sydney Monitor" of 27th Sept., 1828.*]

This, Sir, is not a picked and uncommon instance of the tone and sentiments of my journal, but is like a piece cut from a web of

* Note 158. † Note 159.

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well-woven cloth; it is a fair and just sample of the moral quality and texture of the whole. It is an emanation of the spirit, which animates at all times the pen of the author.

Salary of A. Macleay.

You, Sir, for doing the duties of an office which requires the ordinary abilities of an ordinary Gentleman, having little or no responsibility, are awarded with £2,000 a year, and a pension* of £700 more, the latter paid by the Colonists for services rendered by you to the Home Government in days of yore. Your venerable age required an expensive assistant under the new, and I must be permitted to add, in this case, the pompous title (pompous I mean for such a frugal Colony as this, where the soil and climate are so very unlike the golden soils and fructifying climate of the Antilles) of *Under Colonial Secretary*. Your office, Sir, in Sir Thomas Brisbane's time, was conducted at the annual expense of £2,775. Now it amounts to £5,138. Yet you, Sir, are indulged with grants of invaluable and very scarce land near Sydney, and can afford to build an expensive villa for pleasure. The 50 acres† of land at Elizabeth Bay will in a few years be worth £5 a square rod, or £44,000. Your grant of Land out of Sydney, in the choicest spot in the Territory, is reported to be ten thousand acres. Permit me, Sir, also to ask you wether 3,000 acres‡ in the Cow pastures, at first set apart as Church land (of which Corporation you are a Trustee) has not, by special favour, been put down to your name in part of your several grants? Your family, consisting of a son and numerous daughters, have all handsome portions of land independantly. You yourself, I suppose, are permitted to buy land and to rent it as largely. While I, with my family of daughters, as numerous as yours, and two sons, have been toiling seventeen years in the Colony more or less for the public good; and, after all my toil, I am (I may say it without impropriety) insulted, Sir, by you with being designated a disturber of the tranquility, and a demoralizer of the Colony. You, Sir, after a few hours' labour in your office, can retire to your Saloon, and recline at leisure on your sofa to spend the evening in recreation or in study, or contemplation suitable to your declining years; while I must labour by night as well as by day to sustain my family; and, when my toil is over, and I flatter myself that I have done the State a Service by discoursing, as I now do to you Sir, of the luxurious lives of our salaried officers, as contrasted with their penurious labours; of the ill digested laws which are passed from time to time to regulate our husbandry and our trade, to wit, cedar acts, impounding acts, and licening acts; and other laws, which go to abridge our ancient liberties, particularly the one this instant in operation, which compels the Colonists, under a heavy fine, to reveal the amount of their property to the Convict Constables and underlings of Office; many of whom, for the smallest bribe, will reveal what they learn to malicious neighbours. When I say the labours of the day are over with me, and I think I have discharged my duty to God and man, what is *my* reward? My reward is for a word or a sentence, such as occur in the London newspapers every day, to be haled before a Jury of military Gentleman, appointed by the Governor on an *exofficio* information; and, having escaped that ordeal, to be accused by you, Sir, with being a convicted libeller and a demoralizer of the Community!

Expenditure on office of colonial secretary.

Lands granted to A. Macleay and family.

Comparison of E. S. Hall with A. Macleay.

The Governor's relatives, Colonel and Captain Dumaresq, besides holding several civil appointments, and receiving military pay at

Land grants to H. and W. Dumaresq.

* Note 160. † Note 21. ‡ Note 161.

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the same time, one of them has also been indulged with large grants of land. Except as the relations of His Excellency, how can these Gentlemen (having no families) be justly preferred to me in letting them the Crown Lands, seeing I have eight children, all natives of the Colony? I have repeatedly informed the Authorities, both here and in England, through my Journal, that the Australian born of this Colony are disaffected to the Mother Country. Is this, Sir, to be wondered at, when they see their parents visited with punishment beyond and beside the law, such as you, Sir, inform His Excellency has determined to inflict upon me? When they see the lands of their native Country and the public money lavished on the officers of Government, civil and military, in such large quantities, while their settler-parents, on the slightest grounds, are cut off like outlaws from the benefit of the soil which nature has granted the people of Australia; is it to be supposed that they can cherish loyal and English feelings, such as I, Sir, who was born and bred in England, will maintain, in spite of the harshness of His Excellency to me or of your opprobious accusations, so long as I live?

Discontent of native-born Australians.

Statement in parliament *re* freedom of press.

The late Secretary of State for the Colonies, in order to pacify those enlightened members of Parliament, who, in the late debate on the New South Wales bill, reprobated the unprotected state of the Colonists without Trial by Jury and without an elective Legislature, informed them the Press here was free; and he seems to have congratulated them with the assurance that our Journals evinced a due regard to our rights and liberties, for he spake of the propriety of *a check* being placed on the power of the Governor of N. S. Wales. Little, Sir, did Mr. Huskisson conceive that the conductors here of that Press would be punished by His Excellency in their labours by being deprived of the privilage, which a man, just free from a sentence of transportation, would be entitled to, namely, to rent land to keep his live-stock from perrishing for want of food in the present drought. Here then, Sir, is an instance, in which His Excellency departs from the pledges expressly given by H.M. Ministers to Members of Parliament, in order to disarm their opposition to the bill lately passed for the better Government of the Colony.

Redress available in English courts.

I am not ignorant that, when His Excellency shall have retired from this Government, a remedy will be open to me for this attempt to deprive me of what I conceive my right (for that cannot be an indulgence or an act of grace, which is offered *to all*, to free men and freed men, without regard to rich or poor, high or low). But I conceive it is not the intention of His Majesty that his subjects in this distant part of the world, so far removed from his paternal presence and protection, are to be placed in such circumstances by Governors here as to require redress in the Courts at Westminster? On the contrary, it is doubtless His Majesty's gracious wish and desire that the Colonists of N. S. Wales shall be mildly and paternally governed; and that, in fact, universal forbearance, mercy and kindness should be shewn them on account of their great distance and state of political thraldom; more so than if they were fortified and protected by their grand institutions, Trial by Jury and a popular Legislature, or were nearer to His Majesty's own paternal Government.

Indulgences ordered for E. S. Hall.

If, Sir, you search the records of your Office, you will find a letter, dated in 1810 to General Macquarie from Mr. Peel, commanding him, in the name of the then Secretary of State, to grant me every

indulgence in his power, not only in land, but in provisions, in cattle, and in agricultural stores. The latter I never have received to this day. Now, Sir, if I were considered by His Majesty worthy of indulgences, when I was yet unmarried, how much more ought I to be thought worthy of renting a portion of those illimitable pastures, contiguous to my estate in the distant wilds of this vast island, when I have had born to me here eight children; and when one of them (a youth of sixteen) is himself residing in the same wilderness, but residing there nevertheless at the expense of that education and those manners, which his forefathers in Europe enjoyed; it being his occupation to rescue that wilderness from a state of savage nature, and to help to lay a foundation for European civilization in those wilds, of which the Aborigines, the Kangaroo and the Emu have hitherto been the undisturbed possessors. 1829. 2 Jan. Claims for consideration.

It is persons like me, Sir, who have the greatest claims on His Majesty's Government, not military officers, who receive regimental pay and allowances. Young Mr. Condamine lately drew two Salaries besides his pay, one amounting to £800. What can a young Gentleman like Mr. C. do with such wealth, save invest it in Bank stock, which will realize him 20 per cent. per Annum? In so doing, however, he deserves praise; for numbers of our civil Officers lend their surplus salaries at the usurious interest of 25, 50, and even 100 per Cent. to the distressed traders and farmers of the Colony at this time. Captain Rossi, though unacquainted with our language and our laws, gave general dissatisfaction by being appointed to an office which, of all others, required an accurate knowledge of the language and laws of England in general, and of acquaintance with the inhabitants of this Colony in particular. This Gentleman, by being privy to a present being conveyed to a prosecutor, was complained of to the Supreme Court, and was censured for the act by the Chief Justice. His Excellency, on learning this from the public papers, did not reproach Monsr. Rossi, as you Sir have me, nor yet refuse him land *in fee* or to rent. In lieu of such reproof, he removed him indeed from the Office of the Chief Police Magistrate, but he placed him at the head of the Customs and at a rate of Salary so high as to call for a reduction by H.M. Ministers, not to mention the large grant of land he has received. Official employment of T. de la Condamine; and of F. X. Rossi.

It is making public acts publicly known, which distinguishes a free from an enslaved press. What unhappy measures might the Colonists not expect, if this check on His Excellency's administration were taken away? It was only last week that a priest of the Catholic Church applied to a Bench of Magistrates, complaining of being refused to be let visit a dying man in a public Hospital, the Government Roman Clergyman being forty miles away. The magistrates said they were grieved they could not grant him redress. They said they thought it highly becoming in the present day of toleration, that the Clergy, both of the Church and of the Dissenters, should have free access to dying men in our public Goals and Hospitals; but that they could not give Mr. Therry redress against the keeper of the hospital, lest they should offend His Excellency General Darling, seeing it was by his express orders that no other Catholic Clergyman, save the Revd. Mr. Power, should visit our public Institutions. This Judgement they pronounced in open Court. Necessity for free press. Instance of religious intolerance.

Now, Sir, this is to deprive of religious consolation the chief bulk of dying men of the Catholic faith; for the Revd. Mr. Power cannot

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be in all places at once; and moreover he is particularly requested by the Governor to reside in Sydney. And, half of his Salary being dependant on the pleasure of the Governor, he considers this request to be a command.

Alleged interferenee of R. Darling with private property.

His Excellency has also lately interfered with private property. The farmers and townspeople of this Colony have been put in possession of lands, and directed to improve and build on such lands, under a clear understanding that their tenures would be held as sacred by the Government, as though they had received grants under the seal of the Colony. Old Crown leases* have always been considered equal as a tenure to grants, and been treated as such by all former Governments. Unless indeed they had been so considered, Sydney would have still remained* a mere hamlet. People trusted to the known equity and liberality of their King and Country, and built houses and mansions on their leases, not fearing in the least that, either on account of their politics or their being convicted of patriotic libels, they would be disturbed. Yet His Excellency General Darling lately instituted an action of ejectment against an individual, who had built a house worth £2,000 on a piece of land, which he had purchased in Sydney. Tis true, the Solicitor General was non-suited; but it is reported he will persevere in the action. His Excellency has also directed the same officer to write to the Revd. J. J. Therry, the Catholic Priest, to say that proceedings will be had against him immediately to eject him from the parsonage-house, which he has built with his own private property, unless he gives it up to Government. Mr. Therry considers, in his own conscience, his private property in the premises as of little consideration, and is quite willing to invest his right in his Bishop, but is justly uneasy at the idea of investing it in a Protestant Archdeacon or in Protestant hands at all. The grant of the land, on which the house and Roman Chapel is built, however, never having been made over from the Crown in a formal way, these buildings vest in the Crown, though built chiefly with the money of private benefactors and Mr. Therry's private property, unless, as in Mr. Robert Cooper's case (*Rex v. Cooper*; an action of ejectment), the Court again holds that possession only under the circumstances of this Colony is a valid tenure in New South Wales.

Necessity for free press.

Thus, Sir, H.M. Government at home will learn how necessary the "free press," which they have publically declared to be permantly established in the Colony, is here as a check on the administration of this Government; and hence they will conclude that the punishment of Editors, at the caprice of General Darling, is not only an illegal but also an impolitic act.

The Kings of England, Sir, have always been represented as the Fathers of their people; His Excellency General Darling, therefore as the representative of our gracious King, should, in all his conduct to his distant people, prove to His Majesty's subjects here his title to this parental designation. If, however, His Excellency has not treated me has a son, I know several towards whom His Excellency has acted as a father. These are: his aid-du-camp, Lieutenant Condamine; his three brothers in law, Colonel and Captains Dumaresq; his nephew, Ensign Darling; his family Surgeon, Doctor Gibson; and yourself, Sir. All these Gentlemen are, I suppose, permitted to rent land, and the following favours have also been

Persons selected for special favour by R. Darling.

* Note 162.

bestowed upon them. And first of Colonel Dumaresq. This Gentleman's emoluments when in the Colony, were reported to be as follows:— 1829. 2 Jan.

Emoluments of H. Dumaresq.

	Per Annum.		
Pay and allowances as Captain and Brevet Lieutenant Colonel, in His Majesty's Veterans of N.S.W. (in which Corps he never did duty) ..... say	£500	0	0
Private civil Secretary of Governor Darling ..... say	300	0	0
Clerk to the Councils ..... „	800	0	0
Aidducamp 9s. per day ..... is	164	0	0
Two horses 8s. per day ..... is	146	0	0
Free rations, etc., unknown, lodging money, etc., etc., say in all	90	0	0
	£2,000	0	0

This is believed to have been the emoluments of the Colonel when in the Colony; but perhaps he did not act as Aidducamp and double Secretary at the same time. His emoluments however were great. Added to which, he has a farm granted to him of 13,500 acres, viz., 10,000 to be paid for at the rate of 5s. per acre, and 3,500 acres *in fee*, fre of quit rent except a mere trifle. I have here to observe that another Captain in the same corps, being refused a farm, was so aggrieved at this and other matters that the misunderstanding finally issued in his being brought to a General Court-Martial. His Excellency being prosecutor, which put the Country to a vast expense.

Lands held by H. Dumaresq.

2nd. Captain Dumaresq.

Emoluments of W. Dumaresq;

	Per Annum.		
As Captain of the Staff Corps (of no use in N.S.W. either as soldiers or mechanics) pay and allowances ..... say	£600	0	0
Salary as Civil Engineer	600	0	0
Aidducamp (it is supposed the Captain holds this appointment, but I question it) say	400	0	0
Salary as member of the Land Board	100	0	0
	£1,700	0	0

Lieutenant Condamine.

and of T. de la Condamine.

This young Gentleman has never done a day's duty in his present Regiment, his pay however is say	£150	0	0
Late Military Secretary, now merged by order from home into the Office of Brigade-Major	365	0	0
Clerk to the Council	800	0	0
Private civil Secretary to the Governor	300	0	0
Aidducamp, 9s. per day	164	0	0
Two horses 8s. per day	146	0	0
Lodging money (free rations, etc., unknown) ..... say	50	0	0
	£1,975	0	0

I am not certain, Sir, that these appointments were held all at one time. Deduct however, the Military Secretaryship and other

1829. 2 Jan. small matters, there will remain then twelve hundred a year of the public money enjoyed by this young Gentleman, very lately a modest unambitious ensign, who no more expected to be in the possession of such an income as he now receives, than I expected to succeed you, Sir, as Secretary for the Colony; an Office however, which, I flatter myself, I should fill with infinite more propriety than this young gentleman does that of Secretary to our Councils.

Emoluments of C. H Darling:

Ensign Darling.

		Per Annum.
Pay as Ensign	say	£100 0 0
Aidducamp		164 0 0
Two horses at 8s. per day		146 0 0
Lodging money	say	50 0 0
		£460 0 0

This is what is commonly reported to be the emoluments of this young officer. The military and Commissariat accounts, however, will reveal all; and to them I refer you, Sir, and also H.M. Secretary of State. I wish not to make the emoluments of the relatives of His Excellency greater than they really are.

and of A. Gibson.

Doctor Gibson.

		Per Annum.
Pay as Assistant Surgeon of the Veterans of N. S. Wales, 8s. 6d. a day	say	£155 0 0
Assistant Surgeon on Civil Establishment 7s. 6d. a day, a horese at day		209 0 0
Lodging money	say	50 0 0
Free rations and Servants	say	30 0 0
		£444 0 0

This Gentleman, belonging to a regiment of aged men, ought, I should have imagined, to dwell with the corps. The corps is doing garrison duty at Newcastle, and he is at head quarters, and is in private practice as a Surgeon. The above salary therefore is a sort of sinecure. Dr. Gibson has also been allowed a farm in Argyle of 2,500 acres, and can of course rent land, if he pleases; while his commanding Officer, it is reported, has been refused a farm altogether.

Land granted to A. Gibson.

Right to rent land.

Now, Sir, let me ask you, who is most entitled to rent land, I, who came here specifically as an Emigrant Settler under the peculiar auspices of H.M. Government and have had born to me in the Colony a large family; or Mr. Condamine, or the four relatives of His Excellency, none of whom are family men? I cannot imagine, Sir, that my gracious King, when he comes to learn the large sums of public money and the great quantities of land, which General Darling has bestowed on his relatives and personal friends, will be gratified to find that His Excellency has refused me pasture for my cattle, and the cattle of eight Australian born children, I offering to pay rent for the same?

Although, Sir, I have never been convicted in the Criminal Court of a libel, the paid organ of Government, the Editor of the official Journal, has. For libellious reflections on the Supreme Court, and on the Juries of the Country, and for disrespectful Inuendoes on the Judges and all those civil and military officers, who, he fancies or has heard, have cause of complaint against the present administration,

Conviction of R. Howe for libel.

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he is notorious, so much so that he himself has lately stated his suspicions that they must have represented his conduct to H.M. Secretary of State for the Colonies. Now, Sir, notwithstanding the scurrility, which distinguishes the Government Journal, have you ever had it in command from His Excellency to censure Mr. Howe, as you have done me? Does he not attend upon you every morning for instructions, and is he not closetted with you for long periods in close and confidential intercourse? Has not His Excellency commanded every public officer in the Colony, even those who used to have their printing done at the office at which my Journal is printed, to take it from Mr. Hill, my printer, and give it to Mr. Howe? Have you, Sir, ever been directed to deny the Editor of the Sydney Gazette the privilage of renting land on account of his said attacks on sundry individuals of rank? And, if not, why has His Excellency singled me out as the sole subject of punishment in this respect?

Criticism of treatment of R. Howe.

Besides portions of land, promised Sir to your own family, it is reported His Excellency has been pleased to promise 1,280 acres of land to a lady,* who has lately solemnised marriage with a Gentleman on the medical staff, who is also a large Grantee and Grazier. The father of this young lady educated the son of His Excellency, and I admit that both he and his daughter are highly deserving of every legitimate and equitable encouragement by this Government. But there are innumerable other ladies, both married and single, equally worthy of such singular patronage, as well the daughters of Gentlemen, who have fought the battles of their Country, as Settlers who came to the Colony to live exclusively by farming and grazing. During the administration of Sir Thomas Brisbane, Gentlemen, who received military pay, or a Salary from the Revenue as Civil Officers, were disallowed land altogether. His Excellency General Darling, it should appear, not only awards land to such persons, but extends this privilage to the female part of their families. But the Australian born males of the Colony are not yet all provided with farms. And His Majesty's Government, therefore, cannot and ought not to be surprised at the murmurs and disaffections of the latter, when Officers in the receipt of salaries and pensions, single, double and treble, are thus allowed to pick the best contiguous lands of the Colony; the applications for land by the former being in the mean time deferred from day to day and from month to month through one official reason or other. If H.M. Ministers have directed this mode of appropriating the lands of this Territoary, it is a fact deeply to be deplored. However, as His Excellency has not made such their directions public, I feel it my duty distinctly to protest against such appropriation, when salary-less Graziers, with large families like myself, are precluded even from renting land sufficient to feed their stock on. An oppressive law has just been passed to preclude all persons from feeding cattle on the distant pastures. Cattle are now to be driven to the nearest pound, perhaps a hundred miles distant, and cannot be released but by a tedious process and by fees, perfectly ruinous in amount.

Land granted as marriage portion.

Discontent of native-born Australians *re* land grants.

Finally, It is a maxim of ethics that he, who is dealt with liberally, should be liberal to others. His Excellency, you are aware, Sir, draws from the Revenue the sum of £730 Stg. annually (exclusive of his pay and other allowances and his liberal salary as Governor) for the support of ten horses. Now £730 exceeds by

Forage allowance drawn by R. Darling.

* Note 163.

1829. 2 Jan. £90. His Excellency's pay as Lieutenant General. Governors Macquarie and Brisbane always made use of the Government horses, corn and grass. I do not know that General Darling does this. At all events, His Excellency, being dealt with so liberally in his own establishment, he should be kind and liberal to those under his Government in their little establishments, and not take extra Judical offence at their making legitimate comments on his public conduct.

I have, &c.,
E. S. Hall.

[Enclosure No. 2.]

Mr. E. S. Hall to Sir George Murray.

Sir, Sydney, N. S. Wales, 26th November, 1828.

Illustrations of previous remarks.

I had the honor of addressing a letter to you on the 17th Instant; since which it has occurred to me that to illustrate my remarks or suggestions, by one or two facts, might be expedient, if not necessary, addressing you, as I do, at distance of 16,000 miles. At the same time, Sir, I am well aware that, with an officer of State of such high rank as yourself, brevity is an essential part of a correspondent's discretion.

Alienation of lands by R. Darling.

2. I therefore will, as concisely as I am able, take the liberty of stating to a few circumstances connected with the alienation of lands here by His Excellency.

Location of O'Donnell at Elizabeth bay.

3. There was in Sydney a very ancient man, some eighty years of age, I believe an old pensioned soldier, remarkable for his venerable appearence and great stature. This man, a native of Ireland, took possession of a beautiful spot situate in one of the Coves* of Port Jackson, about a mile from Hyde Park, Sydney, a place much frequented and delighted in by the Sydney Blacks, to a family of whom indeed it belonged. It is not commonly known, but it is a fact which my long residence in the colony has made me acquainted with, that not only was all the Territory, now possessed by us, appropriated by the tribes of Aborigines (who vary in their language and customs, as their districts become separated by lesser or greater degrees of distance), but each district was divided into portions by boundaries well known to themselves, and each family had (and in the interior still has) its own estate or patch of hunting ground.

Division of land into districts by aborigines.

Characteristics of aborigines.

4. The natives of this country, Sir, have never been accurately described in their intellectual character, nor yet *justly* described, but by one author. The author of a periodical† here, called "The South-Asian Register," has alone given the true philosophy of their character (I beg leave to inclose a copy of his work No. 2). They are a corteous, mild, volatile, chivalrous race of men, given to mirth, hospitality and deeds of arms. Their cruelty to their women at times cannot be denied; but it is an exception to, rather than part of their main character. The cheerful indifference or acquiescence, with which they view the Europeans sitting down in the midst of their possessions, at first by means of a pair of convict herdsmen, presently by an overseer and ploughman, and finally by the Settler himself and his family, sufficiently display their character. They never fight for conquest or property, always for honour, for love, for justice or for chivalry. Their tournaments are worthy of admiration. The wager of battle is their Court of Equity. Thus did O'Donnel seat himself down among these sable warriors, and divide with them the black sandy soil, composed of the shells which

* Note 164. † Note 165.

the natives, from time immemorial, had cast aside at their feast and meals, shell-fish being the natural produce of the beautiful sheet of water which washes the strand. 1829. 2 Jan.

5. As the old man declined in strength, he applied to sell his land to a gentleman of rank in the Administration of the inestimable Governor Macquarie; and (as I have heard) that gentleman agreed to allow old O'Donnel an annuity for his life for the land. At length the old man died, and the gentleman in question considered the land his, next at least to the Aborigines, who still resorted there in considerable numbers. For possession by promise* either verbal or written, in Macquarie's days, was considered, Sir, by every colonist as good as parchment and the Seal of the Colony. Such confidence did their exist between the Governor and the people in those simple and happy times. Ejectment for insufficient title was never dreamt of by any man, much less put into practice. Disposal of land by O'Donnell.

6. You perhaps, Sir, may not be aware that the religious and philantrophic world, ever since we took their country from the brave unoffending people of Australia, have been deeply interested in their welfare and have ardently longed them or their hapless progeny some amends for the nameless woes, which our occupation of their country has heaped upon them. Among these stood foremost Major General Macquarie, the father of New South Wales. Governor Macquarie, however, was a man of practical benevolence rather than sentiment and romance, seeing that nothing equal to the expense could be done for the adult Blacks; with that prudence for which he was remarkable, he established a school for the instruction and the board and lodging of the children of the Aborigines. The natives were at first shy of sending their children, for you are aware, Sir, that the correction of children is unknown among savage parents of all nations. But, after Macquarie established a christmass feast and a conference with the blacks of proximate and distant tribes at Parramatta, and the parents had witnessed the progress of certain of their children in reading, writing and singing hymns to the God of the Christians, they began voluntarily to place their children in the school, and accordingly prospered, so long as Governor Macquarie remained in the Colony. The School, I believe, for the sake of *a name*, and because its public abandonment might be considered a blot on the Government in this religious age, is still alive and lingers; but its spirit, with that of its founder, is departed. Philanthropic work amongst natives. School for natives founded by L. Macquarie.

7. In the mean time, Governor Macquarie built huts for the blacks at the cove or bay in question, and, as a special favour, begged the successor of poor old O'Donnel to let him have the land back again in exchange for other land, he Governor McQuarie being earnestly desirous of trying what could be done in the way of civilizing the adult natives, who still resorted thither. The gentleman gave back the land. Besides building huts for them, the General ordered the natives a fishing boat with fishing tackle, and, as I have heard, salt and casks to salt their fish withal, and so established the cove as a native villiage. To the row of huts, he gave the name of Elizabeth Town in honor of his spouse Mrs. Macquarie, who, permit me, Sir, to add, was truly worthy of such a memento. Native village formed at Elizabeth bay.

8. Governor Brisbane, soon after his arrival, became deeply impressed with the necessity of building a Lunatic Asylum;† and, as the natives had gradually disappeared from Elizabeth Bay, after the departure of their partron Governor Macquarie, Sir Thomas Lunatic asylum proposed at Elizabeth bay.

* Note 166. † Note 167.

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fixed on this spot as the cite for a Hospital of that nature. And, certainly putting the blacks and their claims aside, so ellgible a spot in this Territory for the purpose could not have been found, whether the locality, the health, the fertility, or the cheerfulness of the place be respectively considered.

Lunatic asylum proposed at Elizabeth bay.

9. After the departure of Sir Thomas Brisbane, the claims of the Aboriginies or the Lunatics of the Colony were forgotten, or at least they were set aside; and Elizabeth Town, purchased from the Gentleman in question expressly for Government purposes, was *in conjunction with the convicts' garden near Hyde Park* (trenched with the spade and enclosed with a high brick wall), *given to members of our two councils and of the Staff, to the Judges, and to the Governor's relatives, in manner following,** that is to say:—

Alleged disposal of land by R. Darling,

at Woolloomooloo;

10. *Woolloomooloo Cove.*

	acres.
Sir John Wylde after he had departed the Colony ..	8
H. G. Donglass, Esqre., late Clerk of the Council, and Commissioner of Court of Requests	9
— Busby, Esqre., who has been appointed by the present Governor to the situation of Mineral Surveyor	8
(This Gentleman and sons receive of the public money annually about £1,600.)	
A. B. Sparks, Esqre., a most respectable merchant, and Justice of the Peace	9
Judge Stephens	6
Judge Dowling	9
A. Baxter, Esqre., Attorney General	5
James Laidley, Esqre., Dep. Com. General	5
— Balcombe, Esqre., Colonial Treasurer	5

and at Elizabeth bay.

11. *Elizabeth Bay.*

Alexander McLeay, Esqre., Colonial Secretary, the whole of Elizabeth Bay and the cite of Lunatic Asylum, consisting of	58
	122

12. *Government Convicts' Garden.*

Report *re* proposed grants of convicts' garden.

It is reported† this plot of enclosed Ground is to be divided among the following persons. But this, like all alienations, cannot be ascertained by the public from the public offices; Col. Dumaresq, Captain in the N. S. Wales Veterans, late Clerk of the Council, and late Civil Engineer, and late private Secretary, Aid-de-camp, etc., etc., etc.; Mr. Hely, Principal Superintendent of Convicts; The School of Industry; Mr. McLeay, Colonial Secretary; Chief Justice Forbes.

Application for site for mill.

13. A Miller of Sydney of the name of Gordon, son of an emigrant Settler, applied to His Excellency General Darling for a piece of land in the same peninsula to build a mill upon. Patches of the hill were given to others, who applied at the same time, and also subsequently, but Gordon never could procure any. He is still

* This is totally devoid of any foundation. I have not given or promised one Inch of this Ground to anyone.—R.D. (*see* note 21).

† No such report was ever circulated. He is aware of this, but he supposed by stating it in his Paper he might succeed in rendering some one dissatisfied.—R.D.

1829. 2 Jan.

seen hovering about the Offices of the Snrveyor General and Mr. McLeay, this being the fourth or fifth year of his landable perseverance. That his character is mnexceptionable, I need only to mention to you, Sir, the fact of his having been employed by the Venerable Archdeacon Scott as a School Master, when, through the ruinous expense of building a horse-mill on his own premises in Sydney, he was compeled to cease his attendance in the public Offices, and eat bread up the Country by teaching youth for a season.

Application for site for mill.

14. And, that he was a skilful mill-wright, I need only point to the same fact, namely, that he actnally built a horse-mill. Mr. Gordon is now in Sydney; and, the last time I saw him, he informed me that, before he made complaint of his wrongs by some public means, he thought it his duty to the Powers that be, as a Christian man, once more to make application to them to get his land by going personally to Mr. McLeay, or by appealing to the new acting Surveyor General, with whom he seemed to think he might have a better chance of success.

15. An Advertisement has appeared in the Official Journal respecting these farms or Gardens, which has excited the public attention; it runs as follows:—

Proposed repair to road at Darlinghurst.

> Private Road.* Woolloomooloo Hill.—Persons willing to contract for repairing the road leading from the South head road, by the Eastern side of the New Goal on Woolloomoolloo Hill, to the extreme allotment of land on the said hill, are hereby informed that tenders for the same will be received at the Surveyor General's Office, where a specification may be obtained, on any day between eleven and four O'Clock, as to the nature and extent of the Work required to be performed.
>
> Surveyor General's Office, 22nd November, 1828.

16. The public enquire for what reason the public Office of the Surveyor General is employed for the benefit of the private grantee of Private lands to construct a private road?†

17. It is very remarkable and has, I assure you, Sir, excited dissatisfaction among the Catholic population of the Colony (which comprises more than a third of the whole of our population) that, while His Excellency Governor Darling has been alienating the land contiguous to Sydney to the Officers of Government and his own particular friends, he has lately taken from the Revd. J. J. Therry a portion of the ground,‡ annexed by Governor Macquarie to the new and elegant Gothic Roman Chapel, situate in Hyde Park, next to the Convicts' Garden above mentioned, and of which the Reverend Priest has been in possession many years. Without even exercising the formality of ejecting the reverend Gentleman by an action at law, Governor Darling sent *fencers* upon the land, and fenced off such portion as His Excellency is pleased to claim. So that, if the reverend Priest had been tempted to lay aside his clerical character and incited his flocks to repel force by force, a disgracefnl and dangerons affray might have transpired. The

Land occupied by Revd. J. Therry.

* Note 165.

† Because the Snr. Genl. has one of the Allotments, and he was more conversant in this particular matter than any other Person. The Govt. however is in no respect concerned in this road.—R.D.

‡ No part of the ground granted for the Chapel has been interferred with, and no part whatever has been "fenced" in by the Govt. Mr. Therry is the Friend and Countrepart of Mr. Hall.—R.D.

1829. 2 Jan.

Dispute *re* pew in St. James church.

same conduct has been used by Mr. Archdeacon Scott and the Revd. Hill, in the King's church of St. James, Sydney. Instead of bringing an action of ejectment against a certain Parishioner, he has been dispossessed of his Pew *by force*;* and, every Sabbath-day, the congregation witness the spectacle of seeing the said pew guarded by two Constables, with thick sticks in their hands, to keep out the late occupier; and the better to accomplish this object, the pew is now roofed in, so that nobody at all is permitted to worship God therein.

18. The parishioner himself with his family, feeling himself much aggrieved, demands the pew morning and evening every Sunday of the Constables who guard it; on being threatened if he force the door, he retires and stands in the Aisle. Yet are not our Authorities ashamed of such conduct towards His Majesty's Subjects, nor of the Scandal it brings upon the Established Church and the cause of religion in general.

Instances of land grants by R. Darling.

19. Permit me, Sir, to trouble you with one more instance of the manner in which His Excellency the present Governor has alienated land. A list of the names of all, who have applied for land, and their condition in life, would furnish you, Sir, with matter of great surprise, especially if there were to be appended to each name the nature and result of his application. I will mention the result as to three of them, namely, Mr. Pooley Onslow, Mr. Gilding, and Mr. Walter Levi.

Land granted to A. P. Onslow;

20. Mr. Pooley† arrived in this Colony an invalid from India, where he held the rank of a writer in the civil service. And introduction to our Colonial Secretary gave a new turn to his life. He determined on becoming a Settler; and, after being put in possession of a lucrative office in the Customs pro tempore, with five or six hundred a year, he was finally granted several thousand of the very richest acres on the river Manning; and, with the Savings of the public money and his other property, he has established himself there.

to J. Guilding;

Mr. Gilding, an emigrant from the West Indies, was also granted an estate alongside him.

but refused to W. Levi.

But Mr. Walter Levi (lately deceased), who arrived in the Colony with a large property, the produce of an estate sold by him in the West Indies, and who brought an order for land from Earl Bathurst, was refused on the same river.

Reforms necessary to prevent jobbing in land.

21. I shall crave the liberty, Sir, to observe in conclusion that, untill the names of all applicants here for land be published annually in the Sydney Journals with the result of their applications, and untill the Surveyor's Office be put on a footing similar to that Office in Doctors Commons, where the meanest of His Majesty's Subjects for the trifelling expense of one Shilling can be favoured with a sight of a copy of wills and bequests made by British Subjects of all ranks and degrees, high or low, servants of the crown or citizens; so that it may be known, when land is alienated, and how, when, where and to whom, *Jobbing* in this Colony in Crown land will prevail, with all its train of heart-Burnings, Jealousies,

* The Parishioner is Mr. Hall himself. The proceedings alluded to have been under the direction of the Crown Lawyers.—R.D. (*see* note 118).

† Mr. Onslow reed. an appt. of £400 a year, which he almost imly. resigned. He is a most respectable Person and is an aquisition to the Colony in every respect. Mr. Guilding came out with an Order from the Secy. of State for land. Mr. Levi and a few others have been refused land on Williams River; at least it is possible he may have been, as it was discovered, after making the Grants to Messrs. Onslow and Guilding, that the Land alluded to was beyond the boundary.—R.D.

evil-surmiseings, and positive injustice in the most vital points of a colony's welfare. I humbly solicit you, Sir, therefor to take these evils and the remedy now pointed out by me into your most serious consideration. 1829. 2 Jan.

I have, &c..
E. S. Hall.

Sir George Murray to Governor Darling.
(Despatch No. 78, per ship Waterloo.)

Sir, Downing Street, 3rd January, 1829. 3 Jan.

I have received your despatch of the 7th of March last, No. 29, and I have to acquaint you that measures have been taken for supplying the Stores and other Articles for the service of New South Wales, which were enumerated in the requisition which accompanied that despatch. Stores requisitioned to be supplied.

In making this communication, I have to express my satisfaction at the manner in which, in the preparation of the Requisitions in question, the Instructions of the Secretary of State upon this subject have been complied with. I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.
(Despatch No. 3, per ship Magnet.)

Sir, Government House, 3rd January, 1829.

I have the honor to acquaint you, in reference to my Dispatch of the 14th of May last year No. 74, that, on the death of Mr. Oxley, the late Surveyor General, I appropriated the house, which had been allotted for his residence, to the accommodation of the Offices of the Auditor Internal Revenue and the Commissioners for Crown Land, the Surveyor General's Office not admitting, in the present state of that Department, of the Commissioners being provided with a suitable apartment for the transaction of their business. Appropriation of residence of surveyor-general for offices;

2nd. I have the honor further to report that I have appropriated the part of the wing* of the General Hospital (which is detached from the main building) that has hitherto been occupied by Mr. Bowman, the principal surgeon, to the accommodation of the Legislative and Executive Councils, there being in fact no other building at the disposal of Government, in which the Legislative Council on its extended scale could be accommodated. and of wing of general hospital for councils.

It may be necessary to observe that, in removing Mr. Bowman, who is at the head of the Hospital Establishment, no interruption will be occasioned to the duties of the Hospital in Sydney, as there are two Surgeons employed immediately in the Town, one Duties of surgeons at hospitals.

* Note 169.

1829. 3 Jan. of whom resides in the Hospital, and Mr. Bowman, being frequently absent visiting the different Stations, proves that his residence at the Hospital is not necessary.

Proposed report *re* salaries of civil servants. I shall not interfere with the immediate subject of this letter by entering into an explanation in this place of the arrangement, which has been made with respect to the Salaries of the Surveyor General and Principal Surgeon, in consequence of their not being allowed Houses for their residence; but I hope to be enabled to do so by the next opportunity, when I propose reporting generally on the measures adopted in pursuance of the Instructions, conveyed to me by your predecessor in his dispatch of the 31st of March last, No. 19, respecting the new scale of Salaries for the Civil Servants.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Ellen.)

Sir, Parramatta, 3d January, 1829.

Communication *re* transfer of coal-mines to A.A. company. I beg to inform you, before closing my Despatches, that I wrote to the Committee of the Australian Agricultural Company on the 29th Ultimo, wishing to make arrangements for delivering over the Coal Mine to the Company agreeably to the Instructions, conveyed to me in the Secretary of State's Despatch of the 31st of July last, to which communication I have not yet received a reply. The enclosed is the copy of the letter I addressed to the Committee.

I have, &c.,
RA. DARLING.

[Enclosure.]

GOVERNOR DARLING TO COMMITTEE OF THE A.A. COMPANY.

Gentlemen, Parramatta, 29th December, 1828.

Having received orders from the Secretary of State to put the Australian Agricultural Company in possession of a tract of Land to the extent of 2,000 acres, including the coalmines at Newcastle, should the Company be desirous of receiving the mines or the land above-mentioned, I request to be informed of the wishes of the Company in this respect, in order that the arrangements necessary to carrying the Orders of His Majesty's Government into effect may be made with as little delay as possible.

I have, &c.,
RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Waterloo.)

4 Jan. Sir, Downing Street, 4th January, 1829.

With reference to the communication, which was addressed to you on the 15th of November last, I am directed by Secretary

Sir George Murray to acquaint you that the Lords Commissioners of the Treasury have reported that directions have been given that 1,000 Gallons of Lime Juice, 200 lbs. of preserved Meat in Canisters of 5 lbs. each, and 20 quarts of preserved Gravy Soup in pint bottles, should be delivered at the Ordnance Depot for Shipment to New South Wales. 1829. 4 Jan. Shipment of lime juice, preserved meats and soup.

I am, &c.,
R. W. Hay.

Governor Darling to Sir George Murray.

(Despatch No. 4, per ship Magnet.)

Sir, Government House, 4th Jany., 1829.

I do myself the honor to transmit herewith a letter, addressed to you by Mr. Thomas Raine, Merchant of Sydney, on the subject of registering a vessel at this port, which was built at New Zealand. Transmission of letter from T. Raine.

Mr. Raine has stated the case so fully in the enclosed letter that I am not aware, Sir, I can add anything, which would be useful on the subject. I beg, however, to express my opinion that, in a political point of view, it appears highly desirable that Mr. Raine and such persons, as are disposed to form Establishments at New Zealand, should receive every possible encouragement. The intercourse, which would take place between our people and the Natives, would tend more than anything else to the civilization of the New Zealanders, and promote a friendly understanding which at some future period may be of importance. Proposal to encourage intercourse with New Zealand.

I beg leave to enclose the opinion of the Crown Lawyers of this Government that the vessel in question could not legally receive a Register at this Port. Legal opinion transmitted.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Mr. T. Raine to Sir George Murray.

Sir, Sydney, 3rd January, 1829.

Under the full impression that the Islands of New Zealand were a Dependency* of this Colony, I, about two years ago, formed an Establishment on the North West part of the Northern Island at a place called Ho Klanga, which has now risen in consequence to a place of some consideration. With such views and Impressions, I have built two vessels, one called the Enterprise and the other the New Zealander. The former on her arrival, I obtained a Register for; that vessel has since been unfortunately wrecked on the coast of New Zealand. Trading establishment formed in New Zealand. Vessels built for trade.

The *New Zealander*, a Brigantine of 140 tons, arrived in this Port early last Month, and, when I applied for a certificate of Registry for her, I learnt from the Authorities here that no such Registry could be granted. I am consequently now obliged to sail that vessel on my own responsibility between this Colony and New Zealand exclusively. For the more perfect Information of the Home Inability to secure registry of brigantine.

*Note 170.

1829. 4 Jan. Government, I have the honor to enclose copies* of my correspondence and communications on the subject and beg most respectfully to solicit that this case may be taken into consideration and a Register ordered to be given for the vessel.

Request for register.

Vessel under construction. And I beg further to state that I am still prosecuting Ship Building at my Establishment, and have now men engaged for the purpose of building a vessel of 300 Tons Register, which I hope will be launched by the time I shall have the honor of being favoured with a reply to this letter. The persons employed are British Subjects, the Materials, with the exception of the Timber, are all from and belonging to the Mother Country.

Exports from New Zealand. Perhaps it would not be considered impertinent nor irrelevant in my here mentioning the other main pursuits I am following at New Zealand, namely, the procuring of flax and spars. Of the former, I have sent a considerable quantity to England and of the latter I have sent one whole cargo, vizt., per ship Harmony; and from the experience thereby gained, I shall this year import into England a cargo of spars that will I trust be found to answer and be of importance to His Majesty's Navy.

Request for support. I cannot let this opportunity pass without respectfully drawing your attention to my exertions at New Zealand, with the hopes that His Majesty's Government will be pleased to consider them meritorious and deserving of encouragement. I have, &c.,

THOMAS RAINE.

[Enclosure No. 2.]

THE ATTORNEY AND SOLICITOR GENERAL TO COLONIAL SECRETARY MACLEAY.

Sir, Court House Chambers, 26th December, 1828.

Legal opinion against registry of brigantine. We have the honor to acknowledge the receipt of your letter of the 19th Instant, transmitting a letter from the Acting Collector of Customs, enclosing an application made by Mr. Thomas Raine for a Register for the "New Zealander," built at Ho Kiango, New Zealand, and requesting us to report our opinion, with as little delay as possible, whether a Register can legally be granted at this Port to a vessel, built at the above mentioned Island, observing that it was there built by British subjects in the actual employment of persons resident in this Colony.

2nd. In reply, we have the honor to enclose the communications transmitted to us, and at the same time to report, for the Information of His Excellency the Governor, our opinion to be that no Register can be legally granted at this Port to the Vessel in question under the Act of 6 Geo. 4, c. 110. We have, &c.,

A. M. BAXTER, Attorney General.
JOHN SAMPSON, Solicitor General.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 79, per ship Waterloo.)

5 Jan. Sir, Downing Street, 5th January, 1829.

Appointment refused by J. Hill. With reference to my despatch of the 24th of December last, notifying the appointment of Mr. Hill to the situation of Draftsman in the Department of the Surveyor General at New

* Note 171.

South Wales, I have now to acquaint you that, Mr. Hill having declined that appointment, I have appointed Mr. James Larmer in his stead, who will accordingly proceed to the Colony by the first opportunity. 1829. 5 Jan. J. Larmer appointed draftsman.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 80, per ship Waterloo.)

Sir, Downing Street, 6th January, 1829. 6 Jan.

I have to acknowledge the receipt of your despatch of the 28th May last, enclosing a memorial which had been addressed to you by certain Inhabitants of the Colony under your Government, in which they declare their inability to pay the Balance, due by them to the Government, on account of Lands which they had purchased in the year 1825, and stating that you had informed the Petitioners that the Collector of Internal Revenue would be instructed to take their engagements to pay the sums, due by them respectively, by three half-yearly instalments, they paying the Colonial Interest of the time when such Instalments became due. In reply, I am to convey to you the sanction of His Majesty's Government of this arrangement. You will not, however, consider yourself authorised to extend any further indulgence to the parties; and you will take care ultimately to receive from them the payment of the whole amount due by them to the Colonial Government. Approval of concessions granted on payment of instalments on land.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 81, per ship Waterloo.)

Sir, Downing Street, 7th January, 1829. 7 Jan.

I have received your despatch, No. 4 of the 5th of January, 1828, and I have to acquaint you that His Majesty's Government have sanctioned the Salary, at the rate of £300 a year, which you had granted to Mr. Rumker as Government Astronomer, and also the other arrangements connected with the Observatory, as stated in your despatch. Approval of salary for astronomer.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Waterloo.)

Sir. Downing Street, 9th January, 1829. 9 Jan.

Having referred, for the consideration of the Lords Commissioners of the Treasury, your Despatch No. 56 of the 30th of

1829. 9 Jan.

Postage on overseas letters of soldiers.

March last, relative to the Postage of Soldiers' letters in New South Wales, I am directed by Secretary Sir George Murray to transmit to you the copy of a communication, which has been received from the Secretary to the Treasury upon that subject, by which you will perceive that, in the month of December, 1827, the question relative to the Postage on letters to and from Soldiers and Seamen in H.M.'s Service at Stations abroad, where there is no communication by Packet, was brought under the consideration of the Lords of the Treasury by the then Secretary at War, in consequence of which such letters are now charged at a reduced rate of Postage, not exceeding three pence for each single letter; but that, with regard to the postage charged on letters in the Colony, as that is a matter of Colonial Regulation, it is not in the power of their Lordships to interfere in it.

I am, &c.,
R. W. Hay.

[Enclosure.]

Mr. J. Planta to Under Secretary Twiss.

Sir, Treasury Chambers, 29 December, 1828.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you, for the information of Secretary Sir George Murray, with reference to your letter of the 26th of September last, the enclosed Copy of a Letter from the Secretary to the Post Office, dated the 14th of October last, in regard to the Postage of Soldiers' letters to New South Wales.

I am, &c.,
Joseph Planta.

[Sub-enclosure.]

Mr. G. H. Freeling to Mr. J. Stewart.

Sir, General Post Office, 14th October, 1828.

I am commanded by my Lord the Postmaster General to acknowledge the receipt of your Letter of the 6th Instant, transmitting for His Grace's consideration a Letter from Mr. Horace Twiss with Copy of a Dispatch from the Governor of New South Wales, enclosing Copy of a Communication from the Officer Commanding the 39th Regiment relative to the Postage of Soldiers' Letters; and I am directed by His Grace to State for the information of the Lords Commrs. of His Majesty's Treasury that In December last the question, with respect to the Postage on Letters to and from Soldiers and Seamen in His Majesty's Service at Stations abroad to which there is no communication by Packet, was brought under the consideration of the Lords of the Treasury by the then Secretary at War, and in consequence their Lordships authorized His Grace, by Mr. Frankland Lewis's Letter of the 22d January last, to charge such letters with a reduced rate of Postage in no case exceeding Three Pence per Single Letter; this Regulation however could not have been known in New South Wales at the Date of the Dispatch from the Governor.

With regard to the Postage to which such letters are stated to be liable in New South Wales, I am to state that such rates are matter of Colonial Regulation and are not under the controul or management of this Department. 1829. 9 Jan.

G. H. FREELING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship America.)

Sir Downing Street, 10th January, 1829. 10 Jan.

The Lords Commissioners of the Admiralty having permitted Commander Alexander Shairp of the Royal Navy to proceed as a Settler to New South Wales, I am directed by Secretary Sir George Murray to desire that you will make to this Officer a Grant of Land according to the Provisions of the Admiralty Circular of the 11th of August last. Land to be granted to A. Shairp.

I enclose herewith the copy of a letter from the Secretary to the Admiralty, by which you will perceive what have been the services of this Officer.

I am, &c.,
R. W. HAY.

[Enclosure.]

MR. JOHN BARROW TO UNDER SECRETARY TWISS.

Sir, Admiralty Office, 10th Jany., 1829.

Having laid before my Lords Commissioners of the Admiralty a letter dated the 8th Instant from Commander Alexander Shairp of the Royal Navy, relative to his application for a Grant of Land in New South Wales, I am commanded by their Lordships to acquaint you, for the information of Secretary Sir George Murray, that there is no objection to this indulgence being granted to Commander Shairp. Approval of land grant for A. Shairp.

It appears that this Officer entered His Majesty's Service on the 20th of May, 1808.

I am, &c.,
JNO. BARROW.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 5, per ship Magnet; acknowledged by Sir George Murray, 16th October, 1829.)

Sir, Government House, 10th January, 1829.

Having informed you, in my Despatch of the 17th November last year No. 133, that I had employed Captain Sturt of the 39th Regiment to trace the river Macquarie and ascertain the nature of the Country to the Northward, I now do myself the honor to transmit for your information the Copy* of a Report from that Officer, containing an account of His Proceedings from the 8th of December, the day he left Wellington Valley, to the 25th of that Month. Transmission of report from C. Sturt.

It appears, as I supposed, that the waters, from the long continued Drought, had subsided, and offered no impediment to his proceedings; But the interminable rushes, of which he speaks,

* Note 172.

1829. 10 Jan.

furnish ample proof that the land is not available for agricultural purposes, being most probably in ordinary seasons constantly under water.

Presumed course of river Macquarie.

Coupling the late Mr. Oxley's report respecting the River Castlereagh with the particulars stated by Captain Sturt, it is not improbable that, instead of the Macquarie pursuing a course to the North or North West, as had been supposed, it proceeds to the North East, and unites with the Castlereagh. It is, however, unnecessary to speculate on this at present, as I hope by the next opportunity to be enabled to furnish you with further particulars from Captain Sturt.

Health of members of expedition.

I am sorry to find by private accounts received from him, that he was suffering from the intense heat, and that Mr. Hume, whose constitution had been impaired by his former Expeditions, was also suffering severely from Asthma. The men, as you will perceive, Sir, from his report, had been attacked with Opthalmia and dysentery; but at the time he wrote had in some degree recovered.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was a copy of the letter from captain Sturt to colonial secretary Macleay, dated 25th December, 1828, enclosing a copy of his journal from 8th to 20th December; see volume in series V.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Waterloo.)

11 Jan.

Sir, Downing Street, 11th January, 1829.

Transmission of correspondence with G. Blaxland.

With reference to Mr. Twiss's letter of the 25th ultimo, relative to a proposition made by Mr. Blaxland for cultivating Tobacco upon an extensive scale in New South Wales, and to his application for a Grant consisting of 40,000 Acres, selected in a part of the Country where the land was unfit for any other species of production, I am directed by Secretary Sir George Murray to transmit, for your information, the copy of a further letter from that gentleman upon the same subject together with a copy of my reply.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. G. BLAXLAND TO UNDER SECRETARY TWISS.

Sir, 75 Old Broad Street, 14 Janv., 1829.

Letter acknowledged.

I have to acknowledge the receipt of your letter dated the 23d of Decr., and have to request that you will express to Secretary Sir George Murray the disappointment I feel at the measure he has been pleased to adopt respecting my request for encouragement to introduce the culture of Tobacco in New South Wales by refering

it to the Governor for his opinion; at least a year will elapse before an answer can be received, which delay I fear will have the effect of defeating the plans I had in view, as I do not expect that my affairs will permit me to stay so long a time away from the Colony, and my presence here will decidedly be necessary to explain the subject fully to my friends, and to induce them to come forward with such assistance as will be required; and it is only in England that such assistance can be afforded; for which reasons, I most respectfully request that Sir George Murray will reconsider the subject, and order such alterations to be made in the instructions which he considered necessary on his first view of it, as will enable me to act immediately on a measure of such vital importance to the interests of the Colony. 1829. 11 Jan. Request for prompt decision.

I further respectfully submit that, by accordance with my request, no prejudice can arise to any individual, and that it is of the utmost importance to the interests of the Colony, that the Capitalists of this Country should be induced to employ their surplus money in clearing its waste lands, more particularly in the instance of such lands as I have described, which otherwise may be in their unimproved state for generations to come. Advantage of introduction of capital.

On reconsidering my request, if it could be acceded to, I should wish to make this addition that the Grant may be divided into four sections, the first section to commence paying Quit Rents in Seven Years, the second in fourteen, the third in twenty-one, and the fourth in twenty-eight, and the other conditions of clearing, occupation, etc., to be complied with in the same proportion; on considering the extent of the undertaking, I am induced to ask this indulgence, which if granted would give me full confidence in its practicability, and on the extent of it in my opinion its success mainly depends, as a small undertaking of this kind would not command sufficient attention or the proper means of effecting it. Proposed division of grant.

I have, &c.,

GREGORY BLAXLAND.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. G. BLAXLAND.

Sir, Downing Street, 26 January, 1829.

I have laid before Secretary Sir G. Murray your letter of the 14th Inst., in reply to one from Mr. Twiss, relative to a proposition which you had made for cultivating Tobacco upon an extensive scale in New South Wales, and expressing your disappointment at the small degree of Encouragement which your proposals have received. Letter acknowledged.

Sir G. Murray directs me to observe that, had you submitted your plans to the consideration of the Governor, previously to your proceeding to England, the delay of a reference to the Colony might have been now avoided; but, as you did not communicate your views to General Darling in the first instance, Sir G. Murray can only repeat his regret that your proposals cannot at present be accepted. Necessity for reference to R. Darling.

With respect to the additional boon, for which you have applied in your present communication, viz., that the grant, supposing it to be made to you, should be exempt for certain Periods from the payment of Quit Rent, Sir G. Murray would not, under any circumstances, deem it proper to depart from the established Regulations on that head. Refusal of proposed divided grant.

I am, &c.,

R. W. HAY.

1829.
12 Jan.

Sir George Murray to Governor Darling.
(Despatch No. 82, per ship Waterloo.)

Sir, Downing Street, 12th January, 1829.

Previous decision against settlement at Swan river.

By my Predecessor's despatch of the 28th of January, 1828, you were informed of the grounds, which induced His Majesty's Government at that time to relinquish* all idea of colonizing that part of the Western Coast of New Holland, which had been visited by Captain Stirling.

Settlement to be formed.

Circumstances* have since occurred to render the occupation of that position desirable, and an Expedition, under the Orders of Captain Stirling, who will upon his arrival assume the Title of Lieutt. Governor, has therefore been fitted out, and is now on the point of sailing from this Country to form a Settlement as near as may be possible to Swan River.

Administration of new settlement to be independent of Sydney.

The difficulties, which would at all times attend the keeping up a regular communication between Sydney and the new Settlement, have determined His Majesty's Government not to constitute this Colony a Dependency of your Government nor to place Captain Stirling under your Orders. He will look to the Cape for the necessary Supplies of the Colony, but you will of course afford every assistance which he may require, should he have occasion to apply to you for that purpose.

Instructions given to J. Stirling.

I enclose, for your Information, a copy of the Instructions with which Captain Stirling has been furnished, together with a copy of the Regulations, which have been issued for the guidance of the Settlers, who may wish to proceed to the new Settlement.

I am, &c.,
G. Murray.

[Enclosures.]

[*Copies of these papers will be found in a volume in series III.*]

Sir George Murray to Governor Darling.
(Despatch No. 83, per ship Waterloo.)

13 Jan.

Sir, Downing Street, 13th January, 1829.

Return required of tickets of leave.

I have to acknowledge the receipt of your despatch of the 10th of January last, and I have to acquaint you in answer that, although Tickets of leave may be granted under specified and approved Regulations, it appears to be desirable that His Majesty's Government should be informed of the names of those persons who may have received this indulgence, and you will accordingly direct a nominal list of such persons to be prepared for transmission as heretofore.

I am, &c.,
G. Murray.

* Note 173.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 84, per ship Waterloo.)

1829.
14 Jan.

Sir, Downing Street, 14th January, 1829.

I have received and laid before the King your despatch No. 82 of the 29th of May last, with which you have transmitted to me fifteen Conditional Pardons for His Majesty's Approbation and Allowance in conformity with the Statute made in the 4th year of His Majesty's Reign, Cap. 96, Sec. 35. Despatch acknowledged.

The names of the persons in favor of whom these Pardons have been granted are enumerated in the margin.

I have received His Majesty's Commands to signify to you that, in pursuance of the before mentioned Statute, and of the Statute made in the 9th year of His Majesty's Reign, Cap. 83, Sec. 33, His Majesty is graciously pleased to approve and allow the fifteen Conditional Pardons transmitted with your before mentioned despatch and that the same are approved and allowed accordingly. Approval of pardons.

With reference to the cases of Joseph Aarons, William Phillips, and William Macdonald, I observe that these Prisoners have not been under their respective sentences in the Colony beyond the periods of six and eight years. As it may be attended with inconvenience to withhold from these persons the benefit, which you have thus conferred upon them, I have not deemed it advisable to recommend to His Majesty to decline His gracious approval of the same. Criticism of certain pardons.

It appears, however, to His Majesty's Government that the practice of granting pardons to Convicts, who have been transported for life, and who have been but a few years in the Colony, will tend to defeat the ends of Public Justice, and to diminish the effect of that example which is the object of all punishments. I have therefore to desire that, in future, you will not grant any pardons to this Class of Convicts, until a period of ten years at the least of their Sentences shall have elapsed. Should, however, any case occur, the peculiarity of which might, in your opinion, render it expedient to infringe the Rule thus laid down, I have further to desire that you will, previously to granting the Pardon, make a report to me upon the subject, in order that I may take His Majesty's Pleasure thereupon. Restrictions on pardons to transportees for life.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 85, per ship Waterloo.)

Sir, Downing Street, 15th January, 1829. 15 Jan.

With reference to my despatch of the 15th of November last No. 54, relative to requisitions for Stores for the Colonial

1829. 15 Jan. Hospitals at New South Wales, I have the honor to transmit to you a copy of a further communication, which has been received from the Secretary to the Treasury upon this subject, and I have to request that, in all future requisitions of this description, the suggestions of the Army Medical Board contained in their letter to the Secretary at War of the 8th of December last, may be duly attended to in as far as the circumstances of the Colony may permit.

Instructions *re* requisitions for supplies for hospitals.

I am, &c.,
G. Murray.

[Enclosures.]

[*Copies of these papers will be found in a volume in series II.*]

Under Secretary Hay to Governor Darling.
(Despatch per ship Waterloo.)

16 Jan. Sir, Downing Street, 16th January, 1829.

Report required *re* land grant for J. Martin.

Sir Thomas Brisbane having addressed an application to the Secretary of State in favor of a person named John Martin, formerly a Servant in his employment, to whom he states that he had previously to his leaving the Colony given 400 acres of land, which, according to a statement which that person has transmitted to Sir Thomas Brisbane, he appears to have been unable to obtain, Sir George Murray requests that you will inform him of the reasons which may have prevented this individual from receiving his grant, if, as has been stated by Sir Thomas Brisbane, he possessed the means of bringing it into cultivation.

I am, &c.,
R. W. Hay.

Governor Darling to Lord Fitzroy Somerset.
(Despatch per ship Magnet.)

20 Jan. My Lord, Government House, 20th January, 1829.

I have the honor to acknowledge the receipt of your Lordship's letter, dated the 16th May last, authorising the disbanding of the Royal Veteran Companies; and I beg to transmit, for the information of the General Commanding the Forces, the copy of a Memorandum which has been communicated to the respective Companies, in order to give effect to this measure, of which I hope his Lordship will be pleased to approve.

Veteran companies to be disbanded.

Procedure to be adopted.

My intention is to carry the measure into effect progressively;

1st. By locating such men in the Country Districts, as I may be enabled to induce to Settle on the land, proposed to be granted to them. This will be beneficial as well to the Individuals, as to the Colony; and I have therefore held out such encouragement

1829. 20 Jan.

as will I trust induce a number of these men to avail themselves of the offer, rather than remain in the Towns, where they would only add to the dissipation, which too generally prevails amongst the lower Classes here, when assembled in large numbers.

Procedure to be adopted.

2ndly. By allowing such of them to be discharged immediately, as are Tradesmen or are likely, from other circumstances, to provide for themselves and families comfortably in the Towns. In this case, no indulgence will be granted, either in the shape of rations or otherwise, beyond the rations to the several Individuals.

There will still remain, I conclude, a few men to be disposed of, after both these classes are discharged. I purpose continuing these for the present, rather than send them to England; and, when the number discharged amounts to about the Establishment of a Company, I shall then finally disband one of the Companies, and proceed in the same manner afterwards with the others. It has appeared to me that this course is on every account desirable, not only as preventing the evil consequences, which would arise from throwing so large a body of men of this class at once loose on such a community as this is, but, by insuring to the Individuals themselves, as far as is practicable a comfortable means of support for their families.

There are still a few of the Veterans, those of the best character, who are employed by the Civil Government, and these will be retained as a measure of economy, until the final disbandment takes place. These men could not be replaced in their present situations, but at a greater expense than would be occasioned by retaining them.

I beg to add, as the services of the whole of the Officers will not be necessary under any circumstances, that it is my intention to allow such of them to retire at once, as can be dispensed with.

I have, &c.,

Ra. Darling.

[Enclosure.]

Memorandum.

13th January, 1829.

Indulgences for men of veteran companies.

It being intended to discharge part of the men of the Royal Veteran Companies, the following Indulgences will be granted to such as are desirous of settling on farms in the country:—

1st. Each Man will be allowed from 40 to 100 acres of land, according to the quality of the soil or the situation in which he may be required to settle, on his entering into a bond that he will reside on and cultivate his land for a period of seven years on pain of forfeiture.

2nd. He will be furnished with the necessary implements of husbandry.

1829. 20 Jan.

Indulgences for men of veteran companies.

3rd. If married, he will receive a cow from the Government Herds on taking possession of his land, and a second cow at any time within three years, when he shall have cleared and stumped Ten acres.

4. Each Man will be allowed the usual Ration (spirits excepted) for himself and family for Twelve Months from the date of his discharge, to be issued at or in the neighbourhood of his Farm; The Ration to be forfeited, if he or his family absent himself or themselves from the Farm.

5. A Log hut will be put up for the accommodation of such men as are married.

6. It is intended that these men should be located in different parts of the Colony in small Bodies of about *six* in number, as soon as eligible situations have been determined on; and it is desirable that the Individuals should be of different Trades, as being more likely to prove generally useful to the Colony and to afford them an opportunity of providing comfortably for themselves and families.

R.D.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Magnet; acknowledged by under secretary Twiss, 4th October, 1829.)

21 Jan.

Report *re* disbandment of veteran companies.

Sir, Government House, 21st January, 1829.

In acknowledging the receipt of your letter, dated the 24th of May, respecting the disbandment of the Royal Veteran Companies employed in this Government, I do myself the honor to transmit for your information the copy of a letter, which I have addressed to the Military Department, pointing out the manner in which I propose carrying the measure into effect, which I hope will meet with the approbation of the Secretary of State.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was a copy of the letter to Lord Fitzroy Somerset, dated 20th January, 1829.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 86, per ship Waterloo.)

22 Jan.

Instructions *re* convicts transported from Scotland.

Sir, Downing Street, 22nd January, 1829.

Certain Convicts, who have been transported from Scotland to Van Diemen's Land for life or for 14 years, but the term of whose Assignment to the Contractor has been limited to 7 years, having claimed their freedom at the expiration of that period, and doubts having arisen in that Colony as to the admissibility of such claims, I have to acquaint you for your guidance, in the event of similar cases occurring in the Colony under your Government, that, previously to the beginning of the

year 1821, it was the practice to limit the period of assignment of such Convicts to 7 years, but that subsequently to that date, they have been assigned for the whole term of their Sentences. I conclude from this circumstance that there are not many cases of this description in New South Wales, but in every one where it may appear, upon referring to the Assignment Lists, that the period of enactment to the Contractor, or his Assigns, has been limited to 7 years, it will be proper to grant the party freedom in the Colony at the expiration of such term.

1829. 22 Jan.

Instructions *re* convicts transported from Scotland.

For your further information I transmit an Extract from Lieut. Governor Arthur's despatch together with a copy of the opinion of the Attorney General of Van Diemen's Land upon the case therein alluded to.

I am, &c.,
G. MURRAY.

[Enclosures.]

[*Copies of these two papers, dated 4th July and 22nd April, 1828, will be found in a volume in series III.*]

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Magnet; acknowledged by under secretary Twiss, 13th October, 1829.)

Sir, Government House, 22nd January, 1829.

A Mr. John D. Shelley, who arrived some time ago in the Colony, having been very unfortunate, to say the least, in his applications to obtain land, I have thought it desirable to put you in possession of his case as he appears disposed to be troublesome, and threatens to make representation to the Secretary of State of the treatment he has received from the local Government.

Applications for land by J. D. Shelley.

I cannot, perhaps, put you more fully in possession of the matter than by enclosing a copy of the report of the Land Board on his case, which I accordingly transmit, and which fully corresponds with the communication made to me personally by Mr. Shelley.

The case is shortly this: Mr. Shelley professes to be a gentleman of some property in England. He appears to have been aware, before he left Home, that certain Regulations existed here with respect to granting land to Settlers, but he did not suppose that it would be necessary for a gentleman to comply with these Regulations.

Report on details of case.

He stated that he brought out some money with him, three or four hundred pounds, but declined giving any proof of the fact, and it appeared he was not known to any one Individual in the Colony, and had not brought even one letter of Introduction.

1829. 22 Jan.

The situation of Mr. Shelley appears involved in something like mystery, and who he is, or what his pursuits are, cannot be ascertained here. I have, &c.,

RA. DARLING.

[Enclosure.]

Statement of capital by J. D. Shelley.

STATEMENT of the Capital and intentions of Mr. J. D. Shelley, a new Settler from England.

Land Board, 17th May, 1828.

I ARRIVED in Van Diemen's Land by the ship *Eliza* from England about a month ago, and left that vessel to come forward to Sydney by the "*Boddington*."

It was my intention on leaving England to settle as an agriculturist and grazier in New South Wales, and I was aware of the existing Regulations before leaving England, but I was told that it was unnecessary to obtain a letter from the Colonial Office to the Governor of the Colony.

I am possessed of Property in England to the value of about £3,000, which, previous to my departure, I endeavoured to dispose of with a view of employing the proceeds in the cultivation of any land which might be granted to me; but, not having been offered nearly its value, I deferred the sale till I should be able to dispose of it more advantageously.

I accordingly left England with the property I could immediately command, and which is now reduced to about £400 in cash, and some personal property, which I understand is not admissable in a schedule of property applicable to agricultural purposes. The cash I intend to keep in my own possession, as I am not acquainted with any of the Banks, nor with any merchant to whose custody I could entrust it.

I had no other views in coming to the Colony than agricultural pursuits, of which I have some knowledge from having lived in the country.

I am not acquainted with any person in Sydney, to whom I could refer the Board for any further information they might wish to obtain.

JOHN DARLY SHELLEY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 6, per ship Magnet.)

25 Jan.

Sir, Government House, 25th January, 1829.

Despatches acknowledged.

In acknowledging the receipt of your Despatches, dated the 5th of June last, marked "Circular No. 3," and of the 1st of that month marked "Separate," with their respective Enclosures, I do myself the honor to acquaint you that they did not arrive here until the 22d inst., the Surry, in which they came out, having had a very tedious passage.

I have lost no time in communicating to the Colonial Secretary the orders, which I have received on the subject of these documents, and have desired that they may be completed for transmission with all possible despatch. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY. 1829. 27 Jan.
(Despatch No. 7, per ship Magnet.)

Sir, Government House, 27th January, 1829.

Transmission of record of conviction of J. Sudds and P. Thompson.

It appearing that a Copy of the Record of the conviction and sentence of Sudds and Thompson, of the 57 Regiment, by the Court of Quarter Sessions, has not been officially transmitted to your Department, I now do myself the honor to forward a certified copy thereof, to be made use of as you may consider necessary.

My attention was drawn to this circumstance by being informed that, as soon as the Newspapers arrived from England with an account of the matter having been brought under the consideration of Parliament,* Captn. Robison of the Royal Veterans, who is now in arrest awaiting His Majesty's decision on the General Court Martial, by which he was lately tried, went and demanded of the Clerk of the Peace a copy of the conviction of the men alluded to, several copies of which he forwarded to England by the last opportunity, and has been exerting himself, in common with the Opposition Papers, to excite every possible degree of clamour on the occasion. I have, &c.,

RA. DARLING.

[Enclosure.]

CERTIFICATE OF CONVICTION OF J. SUDDS AND P. THOMPSON.

Certificate of conviction.

I DO hereby certify that at the Court of General Quarter Sessions of the Peace, holden at Sydney in and for the Colony of New South Wales on Monday, the sixth day of November, one thousand, eight hundred and twenty six, and continued by adjournment until the Ninth day of the same month, Patrick Thompson, late of Sydney aforesaid, a Private Soldier in His Majesty's Fifty Seventh Regiment of Foot, and Joseph Sudds, late of the same place, a Private in His Majesty's said Fifty seventh Regiment of Foot, were, on the eighth day of the said month of November, convicted of stealing, taking and carrying away a large quantity, to wit Twelve yards of Callico of the value of tenpence, of the Goods and Chattels of Michael Napthaly; and thereupon the said Court pronounced Judgment "That they the said Patrick Thompson and Joseph Sudds and each of them should be transported to such place of Penal Settlement as His Excellency the Governor of the Colony aforesaid should appoint for and during the Term of seven years."

FREDERICK GARLING,
Clerk of the Peace for the Colony of New South Wales.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 8, per ship Magnet.)

Sir, Government House, 28th January, 1829. 28 Jan.

No reply received from A.A. company.

I do myself the honor to report to you, in reference to my Despatch of the 27th of December last No. 142, and to my letter to the Under Secretary of State dated the 3 inst., that I have not

* Note 174.

1829. 28 Jan. No reply received from A.A. company.

yet received any answer to the communication I made to the Committee of the Australian Agricultural Company on the 29th of last month, with a view of putting the Company in possession of the Coal Mines at Newcastle, as directed by your Dispatch, Dated the 31st of July last, No. 18. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Magnet.)

Sir, Government House, 28th January, 1829.

Proposed land grant to M. Hyam.

I will not allow the present opportunity to pass without assuring you that your wishes, with respect to Michael Hyam, the shoemaker, recommended by the Chancellor of the Duchy of Lancaster, shall be attended to.

In order to establish his claim to a Grant of the first class, Hyam has associated himself with a Hosier; and thus, by uniting their respective investments of shoes and stockings, he hopes to obtain a Grant as if he had imported capital available for agricultural purposes to the amount of £2,000.

Hyam, as might be supposed from what I have stated, is a perfect Jew; But, with every desire to render full justice to his ingenuity in qualifying himself to become a man of landed estate, I am apprehensive I shall not be able, *consistently* with the rule in such cases and your desire no more, to put him in possession of a Grant commensurate with his wishes.

For my own part, I could wish that such people as Hyam and his partner would confine themselves to their own proper calling, and defer becoming landed Proprietors until they have done making shoes and selling stockings. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Private," per ship Lady Blackwood.)

29 Jan. Dear Sir, Sydney, 29th January, 1829.

Arrest of private for robbery.

I beg to enclose for your information the copy of a letter from the Superintendent of Police, stating that a Soldier of the 57th Regiment had been taken up for a Robbery, and as it appears, under similar circumstances* to those of Sudds and Thompson.

I have not on this occasion interfered with the course he has pursued; but I shall desire that, on all future occasions, Soldiers under such circumstances shall be delivered over to the Civil Power.

* Note 175.

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The "Australian" has again entered so fully into the subject of Sudds and Thompson that I have thought it better not to take any notice of the case now alluded to, having in fact been already disposed of, as it might lead to the continuance of a discussion which certain evil disposed persons cling to, not being able to discover any other plausible ground for their persevering hostility to the Government.

Reasons for avoiding special action.

In bringing this case under your notice, I should mention that I am not aware of any similar occurrence having taken place since that of Sudds and Thompson, and the present can only be accounted for by the manner in which this case is now discussed in the *Australian* and *Monitor*.* Ever since the arrival of the Newspapers from England, containing an account of the subject having been brought before Parliament, it has been constantly adverted to, and I have been held up to the Public in the most scandalous and odious point of view.

Criticism in press.

My impression of the matter at present is that, as the course adopted in the case of Sudds and Thompson was completely effectual and checked the proceedings of the soldiers for a period of more than two years, now, seeing the manner in which the subject is treated and my conduct is spoken of, it is taken for granted they will be able to effect their object and get rid of the Service without any extraordinary exposure. It must, therefore, rest with His Majesty's Government to determine what course should be pursued, as it will be impossible for me in future to assume the responsibility, which I should incur by deviating from the exact Line which the Law prescribes.

Effect of punishment of J. Sudds and P. Thompson.

I cannot, my dear Sir, close this letter without drawing your attention* to the "Australian" of the 27th Inst., which is enclosed. It appears to be understood, by Mr. Huskisson's Speech on the New Act, that the Press is to be without restraint, and you will observe they are disposed to avail themselves of the License to the fullest extent. One of their objects appears to be that it should be considered that charges had been preferred against me, and that my presence was as that of a defendant, while, in another place, they speak of the indelicacy of my being present as a Judge in my own case. The fact is, there is not the slightest similarity in the case of Sir Thomas Brisbane, which is quoted. If I recollect, charges *were* preferred against him, and he was called on by His Majesty's Government to reply to or explain them; and he very properly appointed a Commission to enquire and report.

Popular opinion *re* freedom of press.

In the case of Sudds, I am ingeniously supposed to be placed in the same situation† as Sir Thomas Brisbane, when *I*, of my

* Note 176. † Note 177.

1829. 29 Jan.

Case of J. Sudds referred to executive council.

own accord, brought the matter before the Council, in order that a proces-verbal might be made of the whole of the circumstances as they occurred. This was done from the best Evidence, and the result was recorded in the Minute* of Council, being of course all that was intended by resorting to the Council on the occasion.

Ignorance of R. Darling *re* illness of J. Sudds.

You will not fail to observe the art with which it is insinuated that I was aware of Sudd's illness, though not officially reported to me, before he was taken from the Jail to the Barrack Square, while the report of the Council is strictly correct as I never heard of his illness either directly or indirectly, publicly or privately, until after his death. The partizans of Opposition here, Wentworth, Wardell, Mackaness and another more exalted personage (whose name I will not mention in this place), few indeed in number, though most of them possessing talent of a certain class, being fully aware of the importance of its being supposed that Sudds' illness was known to me, have used every exertion to make an impression to this effect, and I am therefore desirous to put you in possession of the fact.

Criticism of treatment of J. Sudds by J. McIntyre.

After an attentive revision of the case, I cannot but regret that Mr. McIntyre, the Assistant Surgeon, was not dismissed. His inattention to Sudds is obvious from the commencement, who it is evident was ill, from the first moment of his going into the Jail Hospital until his death, although Mr. McIntyre did not choose to suppose there was anything the matter with him and dismissed him on the 16th November. The man died on the 27th.

Mr. McIntyre had not kept a Register or any sufficient document to enable him to report on the case; and you will, I am sure, consider in reference to the Minute* of Council, that, coupling his proceedings with the Evidence given by him, he was treated with undue lenity in not being removed from the service.

Had Mr. McIntyre been dismissed, as I am now satisfied he ought to have been, it would have shown at once where blame attached, and would most probably have set the matter at rest. The craftiness with which the whole article in the "Australian" is drawn up, and the particulars stated with respect to the proceedings in the case† of Sir Thomas Brisbane, leave no doubt on my mind as to the Individual principally concerned in its preparation.

Articles in *Australian re* J. Sudds.

Two vapid Articles on the case of Sudds appeared in the "Australian" of the 16th and 20th inst., which appeared to close the subject, though an intention was expressed of continuing it. Mr. Forbes was then in the country. He returned to Sydney on the 21st or 22nd. It was brought to the notice of the Public for the

* Note 178. † Note 177.

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first time in the *Gazette* of the 22nd inst., that the Chief Justice was present in Council during the enquiry into the case of Sudds; and on the 27th the subject is again brought forward in the "Australian," professing to take it up from that Paper of the 20th, while, in fact, it goes through the whole case from its commencement, and insinuates that the Council was not unanimous, which is not the fact.

Articles in *Australian re* J. Sudds.

You will, I am sure, Sir, excuse me, should I appear unnecessarily troublesome in recurring to this subject. The Article, alluded to, has been prepared with a view to its transmission to England by the Ship now under Despatch, which was to have sailed the day the "Australian" came out; and it was no doubt hoped it would have been forwarded without the possibility of its being accompanied by any comment or observation; and that it would have arrived in time for the present Sessions, should any Member have been disposed to attend to it. I have therefore been anxious to say a few words on the leading points, should the "Australian" attract notice at home, as I am aware that many copies will be forwarded by this opportunity.

Objects of article in *Australian*.

I remain, &c.,
RA. DARLING.

P.S.—I take leave to enclose* the "Gazette" of the 22nd inst.; as, though of prior date to the "Australian," it contains an article which might be considered as a reply to the latter, and I beg to add a Paragraph* taken from the Sydney Gazette of this day, which has come out since preparing my letter, and which you will find corresponds, as far as it goes, with what I have now written on the subject of the statement in the "Australian" of the 27th inst. R.D.

Articles in *Sydney Gazette*.

[Enclosure.]

MR. J. T. MORISSET TO GOVERNOR DARLING.

Sir, Police Office, Sydney, 22nd January, 1829.

I have the honor to report for your Excellency's information that, about half an hour ago, a private soldier of the 57th Regt. was brought to this Office on a charge of stealing in a shop. From the manner in which the Theft was committed, it was evident that the obtaining the goods was not his principal object.

Stealing by soldier to escape military service.

On being questioned, he stated "that he was troubled in his mind, and wished to get away from his Regiment." I therefore delivered him over to his Commanding Officer, Coll. Allen, to be dealt with by him.

I have thought it right to make an immediate report of these circumstances to Your Excellency.

I have, &c.,
J. T. MORISSET, Pl. Supt. of Police.

* Note 179.

1829.
30 Jan.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Lady Blackwood; acknowledged by under secretary Twiss, 19th December, 1829.)

Sir, Government House, 30th January, 1829.

Application by H. Cahnac for land grant.

In acknowledging the receipt of Mr. Stanley's letter, dated the 30th of November, 1827, transmitting copy of a Memorial from Mr. Cahnac, who it appears is employed as a clerk in this colony, and is desirous of obtaining a grant of land, I beg to observe that the situation of this Person does not afford any hope that he would be able to improve or stock any land he might receive, and, as the copy of Mr. Stanley's letter to Miss Coates was not transmitted, as it appears it was intended to have been, with either the original or duplicate of his letter to me, I am at a loss to know to what extent it was intended the indulgence should be granted to Mr. Cahnac. I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 87, per ship Waterloo.)

1 Feb.

Sir, Downing Street, 1st February, 1829.

Appointment of legislative council.

I have the honor herewith to transmit to you a Warrant under the Signet and Sign Manual, by which His Majesty, in pursuance of the Statute 9th Geo. 4th, Cap. 83, Sec. 20, has been pleased to constitute and appoint a new Legislative Council for the Colony of New South Wales.

The Act of Parliament has so completely defined* the duties of this Body that there seems no reason for entering into any discussion on that subject. You will perceive that the Warrant

Supplementary list of names to fill vacancies.

contains two lists, of which the second is supplementary to the first. At this distance from the Colony, it being of course impossible to obtain any recent information whether particular individuals are resident there or not, and it being necessary that the Warrant should name fifteen Inhabitants or Members of Council, the only practical course has been to subjoin to the original list the names of such persons as have been deemed best qualified to fill any Vacancies, which death or absence may have occasioned in the original list. The names have been carefully arranged in the supplementary List according to the order, which it is deemed right to observe in calling the Gentlemen, mentioned there, into the Council.

I regret that circumstances, which it has been impossible to control, should have so long delayed the transmission of this Warrant to the Colony. I can only express my hope that you may have been able to avert the inconveniences, which the delay may probably have occasioned. I am, &c.,

G. MURRAY.

* Note 180.

[Enclosure.]

1829.
1 Feb.

Warrant for appointment of members of legislative council.

Warrant for Legislative Council.

George R.

Trusty and Wellbeloved We Greet you well. Whereas, by an Act passed in the Ninth year of Our Reign, intituled, "An Act to provide for the administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," it is amongst other things enacted that it shall and may be lawful for Us, Our Heirs and Successors, by Warrants under Our or Their Sign Manual, to constitute and appoint in New South Wales and Van Diemen's Land respectively a Council to consist of such persons, resident in the said Colonies respectively, not exceeding Fifteen nor less than Ten, as We, Our Heirs and Successors, shall be pleased to nominate. And it is thereby further enacted that the Governor for the time being of the said Colonies respectively shall in person preside at all the Meetings of the said respective Legislative Councils, except when prevented by illness or some other adequate cause, and that in his absence such other Member of the said Council, as We shall be pleased to appoint, shall preside at such Meeting. Now therefore, in pursuance and exercise of the powers so vested as aforesaid in Us in and by the said Act of Parliament, We do, by this Our Warrant under Our Sign Manual, constitute and appoint that there shall be within Our said Colony of New South Wales a Legislative Council to consist of Fifteen persons, including the Governor or the Officer for the time being administering the Government of Our said Colony. And We do hereby nominate and appoint Our Trusty and Wellbeloved Francis Forbes, Esquire, the Chief Justice of Our said Colony or the Chief Justice thereof for the time being, the Venerable Thomas Hobbes Scott, Clerk, Archdeacon of New South Wales or the Archdeacon of New South Wales for the time being, Alexander McLeay, Esquire, the Colonial Secretary of Our said Colony or the Colonial Secretary thereof for the time being, Alexander Macduff Baxter, Esquire, Our Attorney General for Our said Colony or the Attorney General thereof for the time being, Michael Culler Cotton, Esquire, the Collector of Our Revenue of Customs at the Port of Sydney within Our said Colony or the Collector or other Chief Officer of Our said Revenue at the said Port for the time being, William Lithgow, Esquire, the Auditor General of the Accounts of Our Revenue within Our said Colony or the Auditor General of the said Accounts for the time being, Lieutenant Colonel Lindesay, John McArthur, Esquire, Robert Campbell, Esquire, Alexander Berry, Esquire, Richard Jones, Esquire, John Blaxland, Esquire, Captain Phillip Parker King of Our Royal Navy, and Edward Charles Close of Hunter's River within Our said Colony, Esquire, to be the first or original Members of the said Council. And We do hereby appoint and declare that, in the absence of the Governor or the Officer administering the Government of Our said Colony for the time being from the Meetings of the said Council, the Chief Justice for the time being of Our said Colony shall preside at such Meetings. And, if at the time of the arrival of these Presents within Our said Colony, any or either of them, the said Lieutenant Colonel Lindesay, John McArthur, Robert Campbell, Alexander Berry, Richard Jones, John Blaxland, Captain Phillip Parker King, and Edward Charles Close,

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Warrant for appointment of members of legislative council.

should be dead or should not be resident within the said Colony, We do hereby further declare that the place or places in the said Council of the person or persons so dead or absent shall be filled by Our Trusty and Wellbeloved John Thomas Campbell, Esquire, Hannibal McArthur, Esquire, — Wyndham of Dinton in Our said Colony, Esquire, Alexander Brodie Spark, Esquire, Thomas McVitie, Esquire, George Thomas Palmer, Esquire, Archibald Bell, Esquire, William Ogilvie, Esquire, or William McArthur, Esquire. And We do further declare and appoint that the said last mentioned persons, or such of them as at the time of the arrival of these Presents within Our said Colony shall be alive and resident therein, shall be called to fill up any such vacancy or vacancies as aforesaid in the order according to which the names of such persons are hereinbefore enumerated and not otherwise. And We do hereby nominate and appoint to be an original Member or original Members of Our said Council any of them, the said John Thomas Campbell, Hannibal McArthur, — Wyndham, Alexander Brodie Spark, Thomas McVitie, George Thomas Palmer, Archibald Bell, William Ogilvie and William McArthur, who may be so called to fill any such Vacancy or Vacancies as aforesaid. Provided nevertheless and We do further appoint and declare that, if any such Vacancy or Vacancies as aforesaid shall have arisen by the absence of any or either of the persons herein first mentioned or original Members of Our said Council, any such person returning to the said Colony, within twelve Calendar Months from the date of the arrival of these Presents therein, shall take his place in the said Council, which shall thereupon be vacated by the person called to fill the vacancy created by such his absence. Given at Our Court at Windsor, on the Thirtieth day of January, 1829, In the Tenth year of Our Reign.

By His Majesty's Command.

GEORGE MURRAY.

Superscribed.—To Our Trusty and Wellbeloved Lieutenant General Ralph Darling, Our Captain General and Governor in Chief of Our Territory of New South Wales and its Dependencies, or to the Lieutenant Governor or Commander in Chief of the said Territory for the time being.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 10, per ship Lady Blackwood.)

Sir, Government House, 1st Feby., 1829.

Delay in acknowledgment of despatches.

I have delayed acknowledging the receipt of Mr. Secretary Huskisson's Despatch of the 31 of March last, No. 19, and of your's of the 11th of June last, No. 9, until I should be enabled to have the honor of reporting fully on the subject of the arrangements made with respect to the salaries proposed for the civil servants of this Government.

Salaries of civil servants.

2d. I now accordingly do myself the honor of submitting to you a general statement of the Departments included in this arrangement, shewing the salaries of each Class of persons employed, and the progressive increase to take place according as the period of their services shall extend.

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3d. You will be pleased to observe, Sir, that I have as far as possible confined the remuneration to be granted to one head, that of salary, as being more simple, having at the same time specified the allowances intended to be included, in order to prevent any claim hereafter on the ground of such contingent Expences not having been provided for or considered when the arrangement was made. Allowances specified.

4th. Having deviated in some cases from the sums authorized by the Despatch now under reply, I shall do myself the honor to state my reasons, as I proceed in remarking on the several Departments, and I trust they will prove satisfactory. Deviations from instructions.

5th. *Surveyor General's Department.*—I have fixed the salary of the Surveyor General at *£1,000* per annum, including House Rent and all other allowances, the House occupied by the late Surveyor General having been appropriated to the accommodation of certain Public Offices, as reported in my Despatch No. 3 of this year. Salary of surveyor-general.

In placing the salary of the present Surveyor General on a lower scale than that recommended by the Board, and approved by Mr. Secretary Huskisson, I was influenced by the consideration that the Board, when fixing the Amount, had in view the long services and loss of Health, which the late Mr. Oxley had suffered in the performance of his duties, and considering from these circumstances that he had a stronger claim to a liberal provision than a person recently appointed to the Office. I cannot however say too much in favor of Major Mitchell's zeal and qualifications, and I should beg to recommend that, after five years' service, he should be considered as having a claim to an addition to his salary of £200 per annum. Proposed increment.

I beg to point out that the four senior Assistant Surveyors have been appointed to the situation of Surveyors, a special notification of which will be communicated to you by this opportunity. According to the arrangement specified in Enclosure No. 1, it will be perceived that the promotion of these gentlemen does not occasion any additional expense. Promotion of assistant surveyors.

6th. *Medical Department.*—Dr. Bowman, the principal Surgeon, has been nominated to the situation of Inspector of Hospitals under the new arrangement, which will be reported specially by this conveyance, and his salary, including House-rent and all other allowances, has been fixed at *£850* per annum. I have stated, in my Despatch No. 3 of the present year, my reasons for granting him an allowance for House Rent, instead of continuing to him the apartments he had heretofore occupied. Salary for inspector of hospitals.

The four senior Assistant Surgeons have been appointed to the situation of Surgeons from the first of the present year, and these I propose employing at the more important Establishments. Promotion of assistant surgeons.

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Salaries in departments of public works;

7th. *Department of Public Works (late Civil Engineer).*—You will observe, Sir, that the Salary of the Architect and Town Surveyor has been regulated, as suggested in your Despatch of the 11th June last No. 9, and that the salaries of all the other Persons of the Department are conformable to the Orders I have received on this subject.

and of roads and bridges.

8th. *Dept. of Roads and Bridges.*—I have stated the salary of the Surveyor of Roads and Bridges at *£600* per annum, including all allowances, and I beg to refer you to my Despatch No. 103 of last year, which I trust will satisfactorily explain why I have in this case exceeded the sum suggested in Mr. Secretary Huskisson's Despatch as the Salary of the Surveyor of Roads and Bridges.

The Salary of £150 has been fixed, as directed, for the Assistant Surveyors, with an allowance of 2s. 6d. per diem for a Horse; but I have found it impossible to spare any of the Officers of the Military Service for these duties, as their Corps, which are necessarily much detached, cannot possibly dispense with them.

Salary of mineral surveyor;

9th. *Mineral Surveyor.*—His salary, including all allowances, has been continued at £500, and the Assistant has been discontinued as directed.

I beg to state, Sir, that it is quite impossible to dispense with Mr. Busby's Services, so long as the work on which he is employed, introducing Water into Sydney, is in operation; and, although I am most anxious to relieve the Government from the prosecution of this measure, it is, I am satisfied, totally impossible for any private Individuals in the present distressed state of the Colony to undertake it. You may be assured, Sir, whenever an opportunity presents itself, that I shall not fail to transfer the undertaking agreeably to the wishes of His Majesty's Government.

and of principal superintendent of convicts.

10th. *Convict Department.*—I have only to remark that I have limited the Salary of the Principal Superintendant to £500 per annum without an allowance for a Horse, not considering that his duties necessarily require him to keep one, and supposing that you may be induced to grant some addition to his Salary, on account of the increased extent of his duties, as represented in my Despatch No. 123 of last year.

Salaries in dockyard.

11th. *Dock Yard.*—The salaries of this Establishment have been notified as ordered. My letter to Mr. Hay, dated 10th July last year, reports the sale of the House which had been appropriated as the residence of the Master attendant.

12th. *Sheriff's Department.*—The salaries of this Department having been fixed as recommended by the Board and approved

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by Mr. Secretary Huskisson's Despatch, it only remains for me to transmit a copy of a letter from Mr. Carter, the late Sheriff, by which it appears, and of which I am myself fully satisfied that the Office of Deputy Sheriff is indispensible to the proper discharge of the duties of that Department. Under which impression I have included the salary of Deputy Sheriff in the Establishment.

Necessity for office of deputy sheriff.

The representations, which I have had the honor to make* respecting the state of the Jail in Sydney, will show that it could not be enlarged so as to accommodate the Prisoners kept on board the Hulk. This vessel is so perfectly ventilated, that the health of the Prisoners is much less likely to suffer than in the Jail, if the latter even admitted of their being kept there, while their security from the isolated situation of the Hulk is much better provided for, and the Establishment is comparatively trifling and the Expense proportionately less than it would necessarily be on Shore for the number of Prisoners kept on board, which generally exceeds one hundred.

Advantage in maintenance of hulk.

13th. *Agricultural Establishments.*—Having already, Sir, put you fully in possession of the arrangements with respect to the Agricultural Establishments, I cannot do better than enclose a copy of my Despatch on that subject, so as to bring the whole of the arrangements immediately under your notice.

Previous report on agricultural establishments.

14th. *Coroners.*—With respect to the Coroners, I have so far deviated from the recommendation of the Board, as, instead of placing all the Coroners throughout the Colony on a salary of £50 per annum, to have allowed the Coroner at Sydney £100, which is about £20 less than he has hitherto received, and I have fixed the Salaries of the other Coroners at £40 per annum. This will be carried into effect as vacancies are filled up and the present Coroners will of course continue to receive salaries, as when they were first appointed.

Salaries of coroners.

15th. The Salaries of the Individuals employed at the Botanical Gardens, Dawe's Battery and Fort Macquarie, The Benevolent Asylum, The Superintendent of Govt. Clocks, etc., The Supt. of the Slaughter House are the same as recommended by the Board and approved.

Salaries unaltered.

16th. I have much satisfaction in adding that the improvement in the Colonial Revenue, as I hope to be enabled to show by the present opportunity, has admitted of the augmentation of salaries now reported (which however does not much exceed £2,000 per annum), without interfering with the arrangements communicated in Lord Goderich's Despatch, referred to in Mr. Secretary Huskisson's, to which I have now the honor of replying.

Provision for increase of salaries.

* Note 181.

1829. 1 Feb. Announcement of fixed salaries.

17th. I beg to observe in conclusion that I have notified the salaries, etc., as specified in Enclosure No. 1, as having been approved by the Secretary of State; and they are now accordingly considered as the fixed salaries of the several Offices and appointments.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

Statement of salaries and allowances for civil servants.

STATEMENT of the Salaries and Allowances granted to the Civil Servants of the Departments hereinafter Specified under the authority of the Right Honorable the Secretary of State as conveyed in his Despatch dated 31st March, 1828, No. 19.

Surveyor General's Department.

Surveyor Genl. to receive ..... which is to include House Rent, Travelling Expenses or Forage for the number of Horses necessary for the performance of his duties and all other allowances.	£1,000 0 0
Depy. Survr. Genl. to receive ..... on his Appointment (which is to include the several allowances specified under the head of Surveyor General, with an encrease after the first year's service of £50 per annum until it reach £650).	£500 0 0
Surveyors (four) To receive as follows, vizt.:—	
First	£400 0 0
Second	375 0 0
Third	350 0 0
Fourth	325 0 0
The above is the maximum Salary of the respective Gradations. An Assistant Surveyor, promoted to the situation of Surveyor, is not immediately to receive the Salary of the latter Officers, unless he shall have attained by his standing in the Department the maximum Salary (£300 per annum) of his appointment as Assistant. His Salary, if under this Sum, is to encrease progressively at the rate of £20 per annum; and, when he shall have enjoyed the Maximum Salary of Assistant for one year, he is to be placed on the scale as fourth or junior Surveyor, on which Salary he will remain until removed to a higher step.	
	Per annum.
Assistant Surveyor to receive on Appointment ..... with an increase after one Year's Service of £20 per annum, until it reach £300. The Surveyors and Assistant Surveyors will receive an allowance of 2s. 6d. per diem for a Horse, when actually Kept by them for the performance of their duties, to be certified upon Honor, and one Ration each when employed in the field, but no other allowance whatever.	£200 0 0
Draftsman to receive on appointt. ..... with an encrease after one year of £10 per annum, until it reach £200. The above arrangement, in those cases in which it applies, is to take effect from the 1st of January, 1828, which will entitle the Persons then employed on the Establishment to the augmentation of Salary above specified on the 1st of January, 1829. The allowance for Lodging Money, which the Assistant Surveyors have hitherto received, will be continued until the end of the present year, from which time the augmentation of salary will take place.	£150 0 0

Medical Department.

Inspector of Colonial Hospitals to receive ..... including House Rent, Travelling Expenses or Forage for the number of Horses necessary for the performance of his duties, and all other allowances.	£850 0 0
Surgeon to receive 15s. per diem	273 15 0
Assist. Surgeon to receive 10s. do	182 10 0
The Surgeons and Assistant Surgeons to receive an allowance of £50 per annum for Lodgings, when not provided with Quarters, and 2s. 6d. per diem in lieu of Forage for a Horse, when required to visit any distant Establishment.	

STATEMENT of the Salaries and Allowances granted—*continued.*

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Medical Department—continued.

Apothecary or Dispenser to receive ..... with Apartments.	£182	10	0	Statement of salaries and
Supt. of the Lunatic Asylum to receive ..... with apartments.	100	0	0	allowances for civil servants.
Midwife at the Factory to receive ..... but no other allowance.	20	0	0	

The above to take effect from the 1st of January, 1828, as far as the arrangement applies to the existing situations.

Department of Public Works.

Director to receive ..... including House Rent, Forage for one Horse, and all other allowances.	£700	0	0

If an Officer in the Military or Naval Service on full pay to receive 20s. per diem, with an allowance of 2s. 6d. in lieu of forage for a Horse.

Superintendent to receive ..... with an increase after one year's service of £20 per annum, until it reach £250 and an allowance of £50 per annum for Lodgings, when not provided with Quarters, and 2s. 6d. per diem for a Horse, when specially authorized as necessary to the performance of their duties.	150	0	0

The above arrangement to take effect from the first day of the present year, so that the Augmentation of Salary will take place on the 1st Jany., 1829.

Architect and Town Surveyor to receive ..... from the 1st of January, 1829, with an increase of £25 per an. after one year's service, until it reach £400. To include House Rent, Forage and all other allowances.	£300	0	0
Foreman of the Yard at Sydney to receive ..... with apartments, but no other allowance.	100	0	0
Foreman of the Yard at Parramatta to receive ..... with Apartments, but no other Allowance.	75	0	0

The above regulation being intended to take effect from the first day of this year, the present Director of Works, being an Officer on full pay, will be paid accordingly, reference being had to the period when he was on Half Pay.

Department of Roads and Bridges.

Surveyor to receive ..... which includes House Rent, Forage, and all other allowances.	£600	0	0
Asst. Surveyor to receive ..... with an allowance of 2s. 6d. per diem in lieu of Forage.	150	0	0

Asst. Surveyor.—If an Officer on full pay 5s. per diem, with the same allowance for Forage as the Civil Assistant.

Convict Department.

Principal Superintendent to receive ..... but no other allowance whatever.	£500	0	0
Supt. Hyde Park Barracks to receive ..... with apartments.	150	0	0
Storekeeper to receive ..... with apartments.	100	0	0
Supt. Carter's Barracks to receive ..... with apartments.	127	15	0
Asst. Supt. of do to receive ..... with apartments.	91	5	0
Supt. at Liverpool To receive ..... with apartments.	60	0	0
Supt. Pt. Macquarie to receive	100	0	0
do Moreton Bay do	100	0	0
do Norfolk Island do	100	0	0

The Supts. at the Penal Settlements to receive one ration of Provisions each in addition.

Such of the above Salaries and allowances as have been issued at the rates specified are confirmed from the dates already ordered: in the other cases the augmentation is to take effect from the commencement of the present Quarter.

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Statement of salaries and allowances for civil servants.

STATEMENT of the Salaries and Allowances granted—*continued.*

Dock Yard.			
Dock Yard and Harbour Master to receive ..... which includes House Rent and all other allowances.	£500	0	0
Storekeeper to receive ..... with apartments.	150	0	0
Master Builder to receive ..... but no other allowance.	150	0	0
Supt. of Boats to receive ..... with apartments.	75	0	0
Master of the Row Guard to receive	80	0	0
Coxswain of the Row Guard to receive	50	0	0
Supt. of Lighthouse to receive	80	0	0
Such of the above Salaries and allowances, as have been issued at the rates specified, are confirmed from the dates already ordered. In the other cases the augmentation is to take place from the Commencement of the present Quarter.			
Sheriff's Department.			
Sheriff to receive	£1,000	0	0
Under Sheriff to receive	200	0	0
Bailiff at Sydney to receive	100	0	0
Bailiff at Parramatta to receive	100	0	0
,, at Windsor to receive	100	0	0
Sydney Gaol.			
Principal Jailor to receive ..... with apartments or £50 per annum in lieu.	£250	0	0
Deputy Jailer to receive	80	0	0
1st Turnkey ,, 3s. 3d. per diem	59	6	3
2nd ditto ,, 2s 10d. do	51	14	2
Constables ,, 2s. 3d. do	41	1	3
Executioner ,, 2s. 10d. do	51	14	2
Parramatta.			
Jailor to receive	£80	0	0
Turnkey (if free) to receive	40	0	0
Windsor.			
Jailor to receive	80	0	0
Turnkey to receive	40	0	0
Liverpool.			
Jailor to receive	80	0	0
Turnkey ,, ...	40	0	0
Newcastle.			
Jailor to receive	80	0	0
Turnkey ,, ...	40	0	0
Penrith.			
Jailor to receive 2s. 10d. per diem	51	14	2
Bathurst.			
Jailor to receive 2s. 10d. per diem	51	14	2
Argyle.			
Jailor to receive 2s. 10d. per diem	51	14	2
Hulk at Sydney.			
Supt. of Hulk to receive ..... with one ration.	150	0	0
Asst. Do to receive ..... with one ration.	100	0	0
Boatswain to receive ..... (being free) with one ration.	41	1	3
Such of the above Salaries and allowances, as have been issued at the Rates specified, are confirmed from the dates already ordered. In the other cases, the augmentation is to take place from the commencement of the present Quarter.			

STATEMENT of the Salaries and Allowances granted—*continued.*

1829.
1 Feb.

Statement of salaries and allowances for civil servants.

Coroners.			
Coroners to receive (Sydney excepted) with the usual Parliamentary Fees.	£40	0	0
Botanical Garden.			
Superintendent to receive (which includes an allowance of sending home seeds, etc., with apartments).	150	0	0
Asst. Superintt. to receive with Apartments.	80	0	0
Dawes' Battery and *Fort Macquarie.*			
Superintendent to receive with an apartment in lieu of all Fees and allowances.	100	0	0
Government Clocks.			
Superintendent to receive taking the risk of damage to the clocks under his charge.	75	0	0
Slaughter House.			
Superintendent to receive This appointment to be discontinued under present circumstances from the 1st November, 1828.	100	0	0
Benevolent Asylum.			
Superintd. and Matron (Being Married) to receive In the event of the death of either, see the arrangement proposed by the "Salaries Board."	104	0	0
Pensions.			
William Neale to receive	40	0	0
N. Divine to receive	78	0	0
Town Cryer of Sydney to receive in lieu of rations.	12	0	0

In the case of its being necessary to issue rations to Individuals, having a claim on Government, instead of rations being issued in kind, the following allowances be paid in lieu thereof:—

Men, each per diem	eight pence.
Women Do	four pence.
Children Do	two pence.

Such of the above Salaries and allowances, as have been issued at the Rates Specified, are confirmed from the Dates already ordered. In the other cases the augmentation is to take effect from the commencement of the present Quarter.

Sydney, New South Wales, 28th October, 1828.

[Enclosure No. 2.]

MR. W. CARTER TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 27th October, 1828.

Necessity for appointment of under-sheriff.

I have had the honor to receive your letter of the 23rd inst. mentioning that the Secretary of State had directed His Excellency The Governor to call upon me to point out those duties of my Office, which are considered to render it necessary that there should be an Under Sheriff appointed.

The Supreme Court sits for eight months in the year, and, by an Order of that Court, the Sheriff is compelled to attend the Court from its sitting to its rising. This alone renders it impossible for the Sheriff personally to perform the Office duties connected with his situation. A considerable portion of the remaining four months are employed in attending the various Sessions.

The business of the Sheriff's Office is so great, as to require very considerable exertion on the part of the Under Sheriff, aided by a Clerk to perform them.

The monies paid into the Sheriff's Office are received by the Under Sheriff. His responsibility is very great, and he is required

1829. 1 Feb. to give the same security to the Sheriff, as the former gives to the Crown.

Duties of under-sheriff. I will enumerate some of the principal duties of the Under Sheriff, which will shew in some measure the nature and extent of his duties.

To attend the Criminal and Civil Courts in the absence of the Sheriff on other duties.

To attend the Courts of Quarter Sessions in the absence of the Sheriff.

To summons all Jurors and Assessors required during the Sittings of the above Courts, which nearly occupies the whole period of the year.

To receive and enter the various writs of Execution, and receive process issued to the Sheriff from the Supreme Court, and afterwards to issue out warrants on them to the different Bailiffs, and to attend to their being properly and promptly executed.

To make returns to the respective attornies, how the various Writs have been executed, to keep their accounts and render them Quarterly.

To keep all the respective accounts of the Office, and make monthly returns for the Sheriff of all Fines and Fees received and paid to the Collector of the Internal Revenue.

To prepare and make returns on the Several Writs, and how executed, for the signature of the Sheriff.

To hold correspondence with the different Bailiffs at Parramatta, Windsor and Newcastle.

To occasionally attend the Jail at Sydney and the Hulk in the necessary absence of the Sheriff.

To effect and make sales of the various Executions, prepare advertisements, and keep the respective accounts belonging to them, with a variety of other minor duties.

Inadequacy of salaries of sheriff and under-sheriff. As I am about to be removed from the Office of Sheriff, I have no personal object in what I state; but I owe it to Truth, and to those who may succeed me, to say that the Salary, received by the Sheriff, is totally inadequate to its duties and responsibility with such a Jail and such Bailiffs, etc., as he is obliged to employ. The Under Sheriff is still worse paid. It is unreasonable to expect that so important and responsible an office should be performed for so paltry a salary.

I have, &c.,

WILLIAM CARTER.

[Enclosure No. 3.]

[*This was a copy of the despatch dated 12th December, 1828, and numbered 137; see page 517 et seq.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 88, per ship Waterloo; acknowledged by Governor Darling, 4th August, 1829.)

2 Feb. Sir, Downing Street, 2nd February, 1829.

With reference to my despatch of the 12th of December last on the subject of the appointment of a Collector of Internal Revenues in New South Wales, I now beg to acquaint you that Mr. Macpherson, the gentleman whom I have selected to fill that

1829.
2 Feb.

situation, has been called upon for Securities for the due performance of his Trust, according to the following scale, viz., his own personal Bond in £5,000 and other Sureties in £5,000 more. I have no reason to suppose that this amount is larger than the responsibility of Mr. Macpherson's office requires; but, should it appear to you, either with reference to the Salary assigned to that situation, the extent of the funds which pass through his hands, or the securities required from other Accountants in the Colony, that those, furnished by Mr. Macpherson, exceed the amount which in fairness should be exacted from him, you will report such opinion to me in order that he may be released in the proportion that you may consider reasonable. On the other hand, should the Bonds, required from Mr. Macpherson, be to an inadequate amount, you will report to me the amount of the additional security, which, under all the circumstances of the case, you may deem it proper to demand of him.

Securities demanded from W. Macpherson.

Report required *re* amount of bonds.

I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.

(Despatch No. 11, per ship Lady Blackwood; acknowledged by Sir George Murray, 12th November, 1829.)

Sir, Government House, 2nd February, 1829.

I have the honor to report to you, in reference to the arrangements which form the subject of Mr. Secretary Huskisson's Despatch, dated the 31st of March, 1828, No. 19, and of mine in reply, dated yesterday No. 10, herewith transmitted, that I have nominated, until I receive your Orders, the following Persons to fill the situations specified, vizt.:—

Nomination of officers

Surveyor General's Department.

in surveyor-general's department;

Asst. Surveyors Robt. Hoddle, J. B. Richards, H. Finch, James Ralph, to be Surveyors on the Establishment.

Medical Department.

and in medical department.

James Bowman, Esqr., Principal Surgeon, to be Inspector of Hospitals, to take place from the 1st of January, 1828, and Assistant Surgeons Geo. Brooks, Pat. Hill, Jas. Mitchell, Matw. Anderson, to be Surgeons in the Establishment from the 1st of January, 1829.

I beg to add that the Assistant Surveyors and Assistant Surgeons, who have been promoted, were the seniors of their respective classes; and I request to be honored by an early opportunity with your orders as to the confirmation of their appointments or otherwise.

Request for confirmation of appointments.

I have, &c.,
Ra. Darling.

1829.
2 Feb.

[Enclosure No. 1.]

MINUTE No. 115.

28th October, 1828.

Appointment of surveyors.

LET it be notified that the Assistant Surveyors, hereinafter named, have been appointed to the situation of *Surveyors* in the Department of the Surveyor General, until the pleasure of the Secretary of State shall be known, viz., Mr. Robert Hoddle; Mr. J. B. Richards; Mr. Heneage Finch; Mr. James Ralfe.

Salary of principal draftsman.

2nd. The Secretary of State has been pleased to direct that Mr. John Thompson, who is at the head of the Drawing Branch of the Department, shall receive the same increase of Salary and allowance as an Assistant Surveyor.

Cancellation of appointment as deputy surveyor-general.

3rd. The appointment of Mr. Hoddle as Surveyor has rendered it unnecessary that he should continue to act as Deputy Surveyor General; his appointment therefore to the latter situation is therefore cancelled, by which the inconvenience that would attend his receiving only Half Salary as Deputy Surveyor General will be avoided.

RA. DARLING.

[Enclosure No. 2.]

MINUTE No. 117.

28th October, 1828.

Appointment of inspector of hospitals.

LET it be notified that the principal Surgeon James Bowman, Esqr., has been appointed to the situation of "Inspector of Colonial Hospitals" (to take place from the first of January last) until the pleasure of the Secretary of State shall be known, and that being provided with Quarters by the Government he will be allowed Salary at the rate of Seven hundred and fifty pounds per annum, until he can procure a House, which he is requested to do with as little delay as possible, as that which he at present occupies will be required for another purpose.

RA. DARLING.

[Enclosure No. 3.]

MINUTE No. 1.

10th January, 1829.

Promotions in medical department.

LET it be notified that the following Promotions have been made, in pursuance of the Authority contained in the Secretary of State's Despatch, dated 31st March, 1828, No. 19, approving the Establishment fixed for the Civil Hospital until the pleasure of the Secretary of State shall be known, Vizt.:

To be Surgeons.

Asst. Surgeons: George Brooks; Patk. Hill; James Mitchell; Matthew Anderson.

Forage allowances.

2nd. An Allowance of 2s. 6d. per diem, in lieu of Forage for a Horse, to be granted to the Medical Officers at the following Stations, to enable them to visit the Establishments under their charge, and more effectually to perform their several duties, vizt.:—Sydney; Parramatta; Windsor; Liverpool; Bathurst.

3rd. It may be necessary to explain, when the new Hospital shall be established at Liverpool, and an Assistant Surgeon appointed to assist in carrying on the duties of that place, that the allowance in lieu of Forage will be granted to only one of those Medical Officers, as the Officer receiving the allowance must undertake all duties not performed immediately within the Hospital.

4th. No Military Medical Officer, who may be employed by the Civil Government, and be allowed Forage in his military capacity, will be entitled to such allowance in his Civil situation. 1829. 2 Feb.

5th. The arrangements above notified to take effect from the first of the present year. RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 89, per ship Waterloo.)

Sir, Downing Street, 4th February, 1829. 4 Feb.

I have the honor to acknowledge the receipt of your despatch dated the 21st of March last, submitting for the consideration of His Majesty's Government that the Wine, imported for the use of the Messes of the respective Regiments stationed in that Colony and which is subjected at present to an ad valorem duty of 5 per cent., should be landed duty free; and I beg to acquaint you in reply that, under the circumstances which you have stated, I am disposed to allow them the indulgence they have solicited. None however but regimental Officers actually belonging to the Mess will be entitled to benefit by this arrangement, and you will take especial care to guard the public Revenue against any abuses arising out of it. Wine for regimental messes to be exempt from duty.

I am, &c.,

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Waterloo.)

Sir, Downing Street, 5th February, 1829. 5 Feb.

I have the honor to acknowledge the receipt of your letter of the 13th of February last with its enclosures, on the subject of the demands occasionally made on the Colony of New South Wales for Naval Stores for His Majesty's Ships resorting there; and, with reference to that part of your letter which relates to the formation of a separate Establishment of Naval Stores in the Colony, I am directed by Secretary Sir George Murray to acquaint you that, in a communication which has been received on the subject from the Lords Commissioners of the Admiralty, their Lordships state that no arrangement has been made by them for that purpose, as it appeared to them, after communicating with the Navy Office, that the heavy demands for Stores, which formed the subject of your representation, were in a great degree occasioned by fortuitous circumstances not likely to occur again. Despatch acknowledged. Proposed naval stores.

I am, &c.,

R. W. HAY.

1829.
10 Feb.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 13, per ship Lady Blackwood.)

Sir, Government House, 10th February, 1829.

Transmission of returns.

In compliance with the Orders conveyed to me in the several Despatches specified in the Margin,* I do myself the honor to transmit herewith the following Annual Returns, vizt.:—

1st. Returns of Applications for Convict Servants shewing the manner in which they have been answered respectively.

2nd. Return of convicts employed by the Government in the several Departments and public Establishments.

3rd. Return of Convicts necessarily maintained by the Government, being under judicial sentences, to which is added the number of convicts employed by the Government, as detailed in Enclosure No. 2.

4th. Return of Convicts employed in the Public Works, specifying the nature and situation of the Works in which they have been engaged.

5th. Return† of the Tickets of Leave granted during the year, with a statement of the Prisoners' original sentences and of the circumstances, which have led to their receiving this Indulgence.

6th. Return of the Convicts who are supposed to have escaped from the Colony during the year. I have, &c.,

RA. DARLING.

[Enclosures Nos. 1, 4, 5 and 6.]

[*These returns have been omitted.*]

[Enclosure No. 2.]

Return of average number of convicts employed by government.

RETURN of the Average Number of Convicts employed in the several Departments and Establishments of the Government during the year 1828.

Station.	Department or Establishment.	Average Number of Men employed. Mechanics.	Labourers.	Total.
Sydney	Engineer	204	255	459
	Dock Yard	34	72	106
	Carters' Barrack	53	97	150
	Shoe Makers	32	..	32
	Tailors	16	..	16
	Botanic Garden and Govt. Domain	..	37	37
	Commissariat	4	43	47
	Customs Dept.	..	13	13
	Mineral Surveyor	6	85	91
	Ordnance	..	12	12
	Survr. Genl. Dept.	..	3	3
	Attached to the Convict Barracks	..	59	59
	Average number of men remaining in Barracks unappropriated waiting until arrangements can be made for their disposal	..	83	83

* *Marginal note.*—Desph. No. 28, 2d April, 1827.

† *Marginal note.*—Dispatch No. 26, 18th March, 1825.

RETURN of the Average Number of Convicts employed—*continued.*

1829. 10 Feb.

Station.	Department or Establishment.	Average Number of Men employed. Mechanics.	Labourers.	Total.
Parramatta	Engineer	29	56	85
	Government Domain	..	43	43
	Weaving Establisht.	14	13	27
	Commissariat	1	8	9
	Attached to the Convict Barracks	..	11	11
Liverpool	Engineer	23	65	88
	Commissariat	1	3	4
Bathurst	Public Works	16	16	32
	Agricultural	..	14	14
	Stock	..	40	40
	Commissariat	2	1	3
	General purposes	..	7	7
Wellington Valley	Stock and Agricultural	..	64	64
Newcastle	Public Works	17	112	129
	Coal Mines	..	40	40
Barren Hills	Wood Cutting Establishment	..	58	58
Grose Farm and Long Bottom.	Agricultural	..	26	26
Rooty Hill	Stock	..	48	48
Emu Plains	Agricultural	..	82	82
		452	1,466	1,918

FREDK. A. HELY.

Return of average number of convicts employed by government.

[Enclosure No. 3.]

RETURN of the Average Number of Convicts maintained by the Government during the Year 1828.

Return of average number of convicts maintained by government.

Particulars.	Average Number.
Total employed by Government as Per Enclosure No. 1	1,918
Port Macquarie	412
Moreton Bay	553
Norfolk Island	177
Roads and Bridges	866
Working on the Roads in Irons	464
Hulk Prison	137
In the several Jails throught. the Colony	442
On the Tread Mill	35
Port Raffles	18
Melville Island	58
King George's Sound	25
Western Port	..
Patients in the several Hospitals	173
Lunatics in the Asylum at Liverpool	31
Invalids, Cripples, and Idiots	214
	4,877

FREDK. A. HELY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

Sir, Downing Street, 11th February, 1829. 11 Feb.

Recommendation of T. H. Vaughan as military settler.

I am directed by Secretary Sir George Murray to acquaint you that Lieutenant Travers H. Vaughan, the bearer of this letter, is about to proceed to New South Wales or Van Diemen's Land with a view of settling in one of those Colonies under the Regulations, which have been promulgated by His Majesty's Government for the encouragement of Officers of the Army to become

* Note 3.

1829. 11 Feb. Settlers in the Australian Colonies; and I am to desire that you will make a Grant of Land to that Officer in conformity with these Regulations.

I enclose a copy of a letter from the Secretary of the General Commanding in Chief, by which you will perceive what have been the services of this Officer. I am, &c.,

R. W. Hay.

[Enclosure.]

Lord Fitzroy Somerset to Under Secretary Twiss.

Sir, Horse Guards, 5th February, 1829.

Services of T. H. Vaughan. Lieutenant Travers H. Vaughan, an halfpay of the New Brunswick Fencibles, having expressed his Desire to proceed to New South Wales as a Settler, I am directed by The General Commanding in Chief to annex a Statement of his Services, and to acquaint you for the Information of Sir George Murray that Lieutenant Vaughan is a respectable and deserving Officer.

I have, &c.,

Fitzroy Somerset.

Services of Lieutenant Vaughan.

Ensign, 13 Foot—5 March, 1812.
Lieutt., New Brunsk. Fens.—25 Mar., 1814.
„ ½ pay ditto —25 Augt., 1816.

Governor Darling to Sir George Murray.

(Despatch No. 14, per ship Lady Blackwood; acknowledged by Sir George Murray, 28th December, 1829.)

Sir, Government House, 11th February, 1829.

Transmission of minutes *re* land for clergy and school estates. I do myself the honor to forward for your information the enclosed Extract from a Minute of the Proceedings of the Executive Council, on the subject of the Land to be granted for the support of the Church and School Establishments of this Government, as likewise copy of a Minute which I issued in consequence, the effect of which will be to place at the disposal of the Trustees of the Church and School Corporation 393,283 Acres of Land, and I trust, Sir, under the circumstances of the case, that you will approve of the measure which has been adopted.

Reasons for deviation from instructions. The inconvenience, which has been experienced by the Church having been so long without funds, and the little probability which existed that the several formalities required by the Public Instructions* in this respect could be complied with within any reasonable period, induced me to submit to the Council the expediency of dispensing with such of the preliminaries as were not essential to the due occupation of the Land by the Church, taking care however that nothing of importance was omitted.

* Note 182.

1829.
11 Feb.

I was induced the more readily to adopt this course as His Majesty's Government had already approved in the cases of Private Individuals of their receiving Grants of Land without waiting until the Counties should be proclaimed and the other formalities enjoined by the instructions be complied with; a strict enforcement of the Instructions would in fact have been ruinous to persons coming out as Settlers, and the most serious inconvenience has already been experienced by the Trustees of the Church and School Corporation having no funds at their disposal, the Colonial Revenue having in consequence been burthened with the stipends of the Clergy and the charges attending the School Establishment, which amounted last year to the sum of *£19,300,* while the Corporation has, at the same time, been without means to provide the necessary accommodation for the performance of Divine Worship, the residence of the Clergy or the School Establishments in several of the Districts, where, from the extent of the population, these various objects are all much required.

Reasons for deviation from instructions.

I am not aware, Sir, it is in my power to add anything of importance on this subject, which the Minute of Council will not supply. I shall endeavour as soon as possible to relieve the Government from a portion of the Expense, to which it has hitherto been subjected; but it is not to be expected that the Corporation will be in a condition for a considerable period to charge itself exclusively with the provision of the Establishments which they will ultimately have to support.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Proceedings of executive council *re* grant of lands to church and school corporation.

Extract from Minute No. 12 of the Proceedings of the Executive Council, dated 5th November, 1828, when there were present:— His Excellency The Governor; His Honor the Chief Justice; The Venerable The Archdeacon; The Honble. The Colonial Secretary.

"His Excellency the Governor brought under the consideration of the Council the subject of the Lands which, by the King's Instructions,* are directed to be set apart for the support of the Established Church and Schools.

"Agreeably to these Instructions it is necessary that each County be first surveyed, valued and mapped, and, afterwards, one *Seventh* in extent and value is to be set apart for the maintenance of the Church and Schools; the remaining *six sevenths* are then directed to be sold or granted to Individuals.

"Four years have elapsed since these Instructions were received; and, although considerable progress has been made in the survey of detached portions of the country, where Settlers have been induced by the quality of the soil to select their Grants, not a single County has yet been completed, and it has, therefore, been impossible to place the Church Corporation in the possession of any land,

* Note 182.

1829.
11 Feb.

Proceedings of executive council *re* grant of lands to church and school corporation.

conformably to His Majesty's Instructions. It is further stated by the Surveyor General that, with the present force of his Department, it will require at least twenty years to complete the Survey of the Country within the present boundaries prescribed to Settlers; and it will nevertheless soon become necessary to extend these boundaries, the eligible portions of the Country for the purpose of agriculture, which they comprise, being already located.

"The Right Honorable the Secretary of State has been pleased to sanction a departure from the Instructions, in favor of individual Grantees, so as to avert the ruinous consequences to which they would otherwise be exposed from the existing state of the Survey of the Country; and it was submitted by His Excellency The Governor whether it might not be expedient to observe the same principle in regard to the Church Corporation, by placing the Trustees in *immediate* possession of such portions of Land, as have been actually measured, taking care that the quantity so given is always *less* than what will ultimately be required to complete the Church and School Estates, so that the Commissioners of Land, when they shall have fixed the value of what has been granted, may be enabled to regulate the quality of soil, to which the Corporation will have claim for the remaining quantity.

"His Excellency further pointed out that, if the measure he had proposed were adopted, the Church Corporation might be placed in the immediate possession of upwards of Three hundred and sixty thousand acres of Land, by which means the Colonial Revenue would, as soon as these Lands should be disposed of, as authorized by the Charter, be partly relieved from the Charge to which it is now subject for the maintenance of Church and Schools; besides that the Corporation, having it in their power to alienate the Lands, private individuals would be enabled to obtain Land without its becoming necessary for the Government to extend the present boundaries, and thus add to the embarrassment, which is already so severely felt from the General Survey of the country being so much in arrears.

"His Excellency then laid before the Council the following Memorandum of Lands, which, from time to time had been reserved for the Crown; and such land having been severally measured and described, His Excellency submitted, whether it would not be desirable to Grant them to the Church and School Corporation in the manner proposed."

* * * * *

"The Council having fully considered the subject which had been submitted to them by His Excellency The Governor, unanimously concurred in the expediency of the measure, and advised accordingly." RA. DARLING.

T. DE LA CONDAMINE, Clerk of the Council.

A true Extract:—E. DEAS THOMSON, Clerk of the Council.

[Enclosure No. 2.]

MINUTE No. 15.

2nd February, 1829.

IT having been found impracticable, under the present circumstances of the Survey of the Colony, to adhere strictly to that part of the King's Instructions, for the disposal of Crown Lands, which requires that the Boundaries of Counties, Hundreds, and Parishes

shall be made and the Land surveyed and valued by the Commissioners, appointed for that purpose, before any Lands are alienated from the Crown, I have deemed it expedient and necessary, with and by the advice of the Executive Council, to suspend the force of the 11th Clause* of the said Instructions, and to place the Trustees of the Corporation of the Church and School Estate in immediate possession of a portion of the Land, to which they will ultimately be entitled. With this view, let the necessary Deeds of Grant be prepared, agreeably to the descriptions, furnished by the Commissioners, and approved by the Council, of the following Pieces of Land, as also a Proclamation to be published in the Gazette, notifying the same for general information, Vizt.:

1829. 11 Feb.

Order for grant of lands to church and school corporation.

No.	County.	Parish.	No. of Acres.
1.	Bathurst	Belubula, Beaufort, Calvert, Lindesay and Errol	85,388
2.	do	Oakley	17,600
		Apsley	15,464
		Ponsonby	17,640
3.	Camden	Unnamed	9,063
4.	Cumberland	Gordon	60
5.	do	Saint Peter	100
6.	do	Saint Luke (1)	661
		Saint Luke (2)	1,284
7.	do	Saint John	1,000
8.	do	Rooty Hill	8,138
9.	do	Botany	4,175
10.	Saint Vincent	Unnamed	42,467
11.	Unnamed	Unnamed	168,000
	Adjoining the Austn. Agricultural Company's Grant.		
12.	Durham	Butterworth	2,810
13.	do	Wolsinghan	2,256
14.	do	Stanhope and Wolsinghan	1,908
15.	do	Marwood and Sedgfield	2,230
16.	do	Middlehope	1,560
17.	do	Sedgfield	2,429
18.	Northumberland ..	Gosforth	2,322
19.	do ..	Branxton	2,128
20.	do ..	Belford	2,040
21.	do ..	Wittingham	2,560
			393,283

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 15, per ship Lady Blackwood; acknowledged by Sir George Murray, 5th December, 1829.)

Sir, Government House, 12th February, 1829. 12 Feb.

I do myself the honor to report, in reference to your Despatch dated the 19th of July, 1828, No. 15, that Mr. Cotton, the Collector, and Mr. Langa, the Comptroller of Customs, having arrived, they have accordingly been placed in charge of that Department.

Arrival of officers of customs.

1829. 12 Feb.

Retention of superseded officers for term.

As these Gentlemen were accompanied by only three persons, a clerk and two other subordinate Officers, I judged it advisable, as well for the convenience of the Public Service, as in justice to the Individuals who have been superseded, to continue the latter in Office to the end of the present Quarter, the 31st of next month, as a means of affording them an opportunity of finding other employment, and of enabling the Persons newly appointed to obtain a more perfect knowledge of the system established here.

I therefore request that you will be pleased to authorize the issue of the salaries of the Persons, who have been retained under the circumstances stated to the end of the present Quarter.

F. X. Rossi transferred to police department.

J. T. Morisset to command at Norfolk island.

I have further the honor to report that Mr. Rossi, the Acting Collector, having been superseded by the above arrangement, has in consequence resumed the charge of the Police Department, and that Lieut. Colonel Morisset has been directed to proceed and take the command at Norfolk Island, according to the appointment he received at Home.

Reorganisation at Norfolk island.

I have already written so fully on the subject of the arrangement* now carrying into effect with respect to Norfolk Island, that I shall confine myself to observing in this place that that Settlement will no longer bear the highly penal character, which has hitherto rendered it so obnoxious to the Convict Population. Lt. Colonel Morisset being a married man, women must of course be permitted to reside there* as at the other Penal Settlements.

Hitherto, the Establishment has been confined to a Commandant, the Captain Commanding the Detachment, who received 10s. per diem, and a subaltern with an allowance of 5s., employed as Superintendent of Works. As Colonel Morisset holds the Appointment of Civil and Military Commandant, he will, I conclude, require certain Officers to assist him in carrying on the duties of the respective services. I therefore request to be informed what assistance I shall be authorized to give him in this respect.

I have, &c.,

Ra. Darling.

Under Secretary Twiss to Governor Darling.

(Despatch per ship Waterloo.)

13 Feb.

Application by G. Blaxland for land grant.

Sir, Downing Street, 13th February, 1829.

With reference to the letters which were addressed to you on the 25th of December and the 11th of January last, upon an application from Mr. Gregory Blaxland for a Grant of 40,000 Acres of land in New South Wales, within a view to the cultivation of Tobacco upon an extensive scale, I am directed by

* Note 183.

1829. 13 Feb.

Secretary Sir George Murray to transmit to you for your information the copy of a further letter which that gentleman has addressed to this Department.

Sir George Murray is very unwilling to depart from the principle which he has established in respect to applications of this nature, not in the first instance submitted to your consideration; but, in consequence of the representations made by Mr. Blaxland, Sir George Murray has consented so far to qualify his former directions, as to authorize your placing Mr. Blaxland in possession of such part, as you may judge expedient, of the land for which he has applied, without waiting for the sanction of the Secretary of State, should it be your opinion that the cultivation of the particular tract in question, in the manner pointed out by Mr. Blaxland, will be conducive to the interests of the Colony, and that the granting a part of it to him under the circumstances of his application would not give rise to any inconvenience. You will understand that on no other grounds would Sir George Murray be disposed to authorize a compliance with Mr. Blaxland's request without first receiving your report.

Authority to grant land to G. Blaxland at discretion.

I am, &c.,

HORACE TWISS.

[Enclosure.]

MR. G. BLAXLAND TO UNDER SECRETARY HAY.

Sir, 73 Old Broad Street, 12 Feby., 1829.

Admitting the propriety of the principle that all applications should be made in the first instance through the Governor of Colonies, as you was pleased to express to me, I have to observe that, before I left New South Wales, I considered that I had taken the necessary precaution on that head, as I informed Mr. M'cleay, the Colonial Secretary, of my intention to apply for encouragement to cultivate seeds for oil as an article of export. And I have reason to believe that the Secretary for the Colonies was wrote to and requested to encourage my plan. But the very low price of such oils has compelled me to alter my intention and to give up the idea of cultivating such seeds, and to substitute tobacco in their stead; having done this, I trust, will not be considered a very material deviation from the rule laid down in such cases. And, as I expect to leave England early in the Spring, I have to request, in reference to Sir George Murray's determination conveyed to me in your letter of the 26th of last month, That, if he does not feel justified in ordering the Grant, that he will be pleased to give me a letter to His Excellency the Governor, recommending him to accede to my request on my arrival, if he considers it reasonable and worthy of attention. I make this request that more time may not be lost than absolutely necessary, as otherwise, by my leaving this Country before the Governor's answer arrives, I may be compelled to wait in the Colony inactive untill Sir George Murray's instructions are sent out in answer to the Governor's letter.

Statement made to A. Macleay.

Request for letter of recommendation.

On reviewing this transaction and again taking into consideration the time and the very heavy expence the clearing of such land, as

1829. 13 Feb. Request for concessions.

I have applied for, will require, I must again intreat Sir George Murray to grant me a longer time than seven years to carry into effect the clauses of occupation and improvement on the Grant. To explain this more fully, I will do myself the honor of calling on you again next week.

I have, &c.,
GREGORY BLAXLAND.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 16, per ship Lady Blackwood; acknowledged by Sir George Murray, 1st November, 1829.)

Sir, Government House, 13th February, 1829.

Transmission of letter.

I do myself the honor to forward, at the desire of Brevet Lieut. Colonel Snodgrass, the accompanying letter, which he has addressed to you, applying for a Grant of Land.

Testimony in favour of K. Snodgrass.

The Lieut. Colonel is on Half Pay and Brigade Major in this Command, and I apprehend has no intention of resuming the more active duties of his Profession. His services appear to give him every claim to indulgence, and his conduct has been such, during the short period he has been attached to this Command, as to give me a very favourable impression of his character.

I have, &c.,
RA. DARLING.

[Enclosure.]

LIEUT.-COLONEL SNODGRASS TO SIR GEORGE MURRAY.

Sir, Sydney, New South Wales, 5th Feby., 1829.

Application by K. Snodgrass for land grant.

Having been informed by His Excellency Lieut. General Darling, Governor in Chief, that recent Orders from England had put it out of his power to give a Grant of Land either to Civil or Military Officers employed in the Colony without special permission, I feel myself under the necessity of making an application to you for that purpose, and have briefly to state that the view of settling part of my family here was my principal inducement for accepting the situation of Major of Brigade, after having commanded a regiment for eight years, during which period I received five medals for commanding in action and was made a Companion to the Bath; but, from a severe wound in the Head, the Army Medical Board considered me as unable to serve in the East or West Indies, which so far (unless I ran that hazard) put it out of my power to follow my profession in the most beneficial way. I was led to believe (from authority I did not question), before I left London, that the power of conceding Grants of Land was still vested in His Excellency the Governor, except to Regimental Officers; now, as my situation (although Military) is so far permanent, if the Colonial Secretary, Surveyor General, and others in the employ of Government,

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13 Feb.

Application by K. Snodgrass for land grant.

are allowed and hold large grants, I hope I will be favoured with a similar indulgence, particularly as my eldest son will in a very short time be of an age to take charge of any Grant; at the same time, was I to apply for it in his name, he would not be entitled to any of the Advantages held out to Officers who may become Settlers.

I have now only to State that I brought out with me London Bills and property to the amount of Fifteen hundred pounds. I have a pension for wounds, with half pay from the British and Portuguese Governments, the amount of which can be known at Macdonald and Campbell's Army Agents, besides what I receive as Major of Brigade. I therefore beg that you will be pleased to direct that as large a Grant of Land, as can consistently be given, should be made over to me in the usual manner.

I have, &c.,
K. Snodgrass, Lieut. Colonel.

Under Secretary Hay to Governor Darling.*

16 Feb.

Dear Sir, Downing Street, 16th February, 1829.

Recommendation of J. Wade.

The Bearer of this letter, Mr. John Wade, has been strongly recommended to me by the Bishop of Rochester and others to whom Mr. Wade is personally known.

Mr. Wade is going out to seek his fortune at New South Wales, and I am induced to give him this letter of introduction to you in the hope that you may have an opportunity of conferring some minor appointment upon him; or, at all events, that you may be able to put him in the way of obtaining private employment, should he not be able to obtain any official situation.

I am, &c.,
R. W. Hay.

Governor Darling to Sir George Murray.
(Despatch No. 17, per ship Lady Blackwood.)

Sir, Government House, 16th February, 1829.

Reduction in number of convicts employed by government.

Being desirous of giving every possible effect to the wishes of His Majesty's Government, that the number of Convicts retained for the service of the local Government should be as limited as possible, I take the liberty of informing you that I have lately carefully revised the several Establishments, in which Convicts are employed, and having reduced the numbers to be permanently retained, I do myself the honor to transmit for your information copy of a Minute, which I have issued with this view.

* Note 3.

1829. 16 Feb.

The numbers are fixed on the lowest possible scale, considering it better that they should be increased in the event of any emergency requiring a larger number to be employed, than keeping Individuals whose services may not be at all times necessary.

Convicts maintained by government.

In communicating the above, which shows the number of convicts indispensable for the service of the several Departments and Establishments, I do myself the honor also to forward an Abstract of the numbers of Convicts who are necessarily maintained but not required by the Government (the numbers of which cannot in fact be controlled), in order to do away any misapprehension, which might exist, that all the convicts maintained are intentionally retained by the Government without considering the wants of the Settlers.

It will be seen as follows that the numbers necessary for the service of the Government is comparatively small to those actually maintained at its Expense, "Vizt.":—

Number of convicts retained by the Government whose services are required in the several Public Establishments, etc.	1,481
Number of convicts necessarily maintained, being under sentence, etc.	4,273
Total number not assignable to the Settlers	5,754

Number of male convicts landed;

I beg leave, Sir, to add for your further information an abstract of the number of Male Convicts who arrived in the Colony during the years 1826, 1827 and 1828 respectively, making a gross number of *6,032*.

and of expirees and ticket-of-leave men.

As likewise an abstract shewing the number of convicts, whose period of transportation had expired, and of "Tickets of Leave" granted to others within the same period, by which it appears *4,140* Individuals were in fact added to the Free Population, the Ticket of Leave men during good behaviour being allowed to be at large and to work on their own account.

I purpose having the honor of transmitting to you in a separate Dispatch a report similar to this respecting the Female Convicts.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MINUTE No. 144.

Government House, 10th December, 1828.

Limitation of convicts employed by government.

THE Convict Establishments which are considered necessary to the several Public Departments, and Government Establishments, having been recently fixed, Let the Principal Superintendent of Convicts be informed, he will be responsible that the number of men,

1829. 16 Feb. Limitation of convicts employed by government.

actually employed in these Departments and Establishments respectively, does not exceed the limits which have been prescribed to each. "Vizt.":—

	Overseers.	Mechanics.	Labourers.	Total.	General Total.
Sydney—					
Public Works	27	155	87	269	
Dock Yards	3	38	56	97	
Commissariat	2	3	43	48	
Botanic Garden	1	0	18	19	
Customs	1	2	15	18	
Military	—	—	10	10	
Hyde Park Barracks	14	30	31	75	
Carters' Barracks	25	0	75	100	
do Boys	—	—	90	90	
					726
Parramatta—					
Public Works	3	15	19	37	
Weaving Establishment	—	28	0	28	
Government Domain	2	1	27	30	
Commissariat	—	1	6	7	
Convict Barracks	—	—	11	11	
					113
Liverpool—					
Public Works	2	25	48	75	
Convict Barracks	1	—	7	8	
Commissariat	—	1	3	4	
					87
Newcastle—					
Public Works	4	12	36	52	
Coal Mines	1	8	25	34	
Prisoners' Barracks	1	0	6	7	
Mounted Police	—	—	6	6	
Commissariat	—	—	2	2	
					101
Pennant Hills—					
Procuring Timber for the Public Works	1	10	35	46	
					46
Bathurst—					
To repair Public Buildings	2	5	13	20	
					20
Survey Genl.'s Dept.—					
Attached to 12 Surveyors	—	—	72	72	
Surveyor Genl.'s Office	—	—	3	3	
					75
Mineral Surveyor—					
Constructing works for the supply of Sydney with water	4	7	129	140	
					140
Agricultural Establishments—					
Emu Plains	6	10	49	65	
Grose Farms	3	—	19	22	
Longbottom	1	—	5	6	
Wellington Valley. Agricultural	4	8	38	50	
Wellington Valley. Government Stock.	5	—	25	30	
					173
Total Fixed Establishments					1,481

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Returns required of convicts.

Let the Superintendents of the several Convict Establishments be directed to transmit weekly returns of Convicts to the Colonial Secretary and the Principal Superintendent of convicts, and to return such men, as may be borne on their strength over and above the fixed Establishment, under the heads of Supernumeraries or Invalids as the cases may require. Also desire that they will annex to these Returns a nominal list of all the supernumeries, stating opposite the name of each Individual the circumstances under which he has been received, in order that the principal Superintendent of Convicts may make the necessary arrangements for the ultimate disposal of such men.

Disposal of convicts returned by settlers.

When Prisoners are sent in by Settlers, they are immediately to be forwarded to the nearest Road Party, and are not to be kept on the Establishment. The number of men so received and transferred are to be correctly stated in the weekly returns, and nominal Lists are to be forwarded immediately to the principal Superintendent of Convicts, and to the Surveyor of Roads and Bridges at Parramatta. Let the Surveyor of Roads and Bridges be informed, that the men, who are attached to the ordinary Road Parties, are never to be retained by him beyond the prescribed period, *six months*, and desire that, on the 5th and 20th of each month, he will transmit to the Principal Superintendent of Convicts the names of such men as have served the given period, in order that they may be assigned.

Limitation of service in road parties.

Returns of convicts available for assignment.

The principal Superintendent of Convicts will forward to the Land Board, on the 1st and 15th of each month, a Return of all Supernumeraries, who are eligible for assignment, as also of all such men as are returned for assignment by the Surveyor of Roads; and, in preparing these Returns, it will be necessary for him to state the place where the men are stationed, with a view to their being assigned in the same neighbourhood, except in such cases as it may be thought desirable to remove the Individuals to some other Districts, which must then be stated for the information and guidance of the Land Board.

RA. DARLING.

[Enclosure No. 2.]

Returns of convicts maintained by government.

RETURN of the Number of Convicts Maintained, being under Sentence, and whose Services are not required by Government on the 1st February, 1829.

Particulars.	No.	Remarks.
Port Macquarie	323	Penal Settlement.
Moreton Bay	770	do
Norfolk Island	211	do
Port Raffles	30	
King George's Sound	25	
Roads and Bridges	1,358	These Men having been returned to Govt. from Assigned Service are required by the Regulations to labour on the Roads for Six Months.
Working on the Roads in Irons	485	By order of Magistrates.
In the several Jails throughout the Colony	442	
Hulk Prison	175	Under Sentence of Transportation to Penal Settlements.
On the Tread Mill	44	Under Judicial Sentence.
In the several Hospitals	219	
Lunatics in the Asylum at Liverpool	20	
Invalids, Cripples and Idiots	171	Not eligible for Assignment being incapable of Labour.
Total necessarily maintained	4,273	

[Enclosure No. 3.]

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RETURN of the Number of Convicts who have arrived in the Colony during the Years 1826, 1827 and 1828. Return of convicts received in colony.

Year.	No.
In the Year 1826	1,734
do 1827	2,110
do 1828	2,188
Total of three Years	6,032

[Enclosure No. 4.]

ABSTRACT of the Number of Certificates of Freedom and Tickets of Leave granted during the Years 1826, 1827 and 1828. Abstract of certificates of freedom and tickets of leave.

Year.	Certificates of Freedom.	Tickets of Leave.	Total.
In the Year 1826	997	121	1,118
do 1827	1,014	487	1,501
do 1828	996	561	1,521
Total	2,971	1,169	4,140

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 18, per ship Lady Blackwood.)

Sir, Government House, 17th February, 1829. 17 Feb.

I have the honor to inform you that the Public Accounts of the Civil Branch of this Government for the years 1826 and 1827 have been forwarded by this opportunity to the Lords Commissioners of His Majesty's Treasury for the purpose of being referred to the Commissioners of Colonial Audit. Transmission of public accounts.

The accounts for the year 1828 are very nearly completed, and will be forwarded by an early opportunity. Heretofore it had not been practicable to make up the accounts, in any regular form, and the little check, which the Individuals who furnished supplies, had been subjected to, seemed to occasion an indisposition on their part to comply with the forms, which were established soon after my arrival. Delay in preparing accounts.

It became necessary in consequence to refer to the same parties and Individuals again and again, some of whom resided in distant parts of the Colony, before the proper documents or correct vouchers could be obtained. But I trust a system of regularity is now so well established that the same inconvenience will not be again experienced, and that the accounts of every succeeding year will be completed with the same promptness as those of 1828. I have adverted to this to explain the cause of the Accounts of the years 1826 and 1827 not having been before transmitted.

There is one point, being connected with the accounts, to which I must, Sir, request your attention, that is, the actual impossibility in a Government of this Nature of fixing the Establishments of some of the Departments permanently. Inability to fix establishments permanently.

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Inability to fix establishments permanently.

As the Colony is still in its infancy and is rapidly advancing, it has been necessary from time to time to alter the Establishments in order to provide for the demands of the service. This is more particularly felt in the case of the Establishments charged with the Superintendence of Convicts. It is not in the power of the Government to control the number of the Convicts maintained, as will be seen by my Despatch No. 17, transmitted by this opportunity, and the number of constables, overseers, etc., etc., must necessarily be augmented or diminished, as the number of convicts increase or decrease. Again, the character of these Individuals renders an almost constant change necessary; and, according to the Instructions from the Lords of the Treasury, all these additions and Mutations must be reported by the Governor, and approved at Home, or his accounts will be surcharged. It is therefore evident that much valuable time must be taken up in reporting and applying for authority in such cases, while in fact it is impossible for Government to control the Expense. I am however as anxious as any one can be to keep it as low as possible, and every arrangement, which has been made, has had this object in view, while I have studiously avoided making any appointments which were not absolutely necessary. In old established Governments of a different character, changes very rarely take place. In this Colony, which is not only young but of a peculiar composition, the necessity of these changes is constantly occurring. I am therefore very apprehensive that, with every possible attention and desire to conform to the Instructions, it will be totally out of my power, as it hitherto has been, without neglecting matters of importance, to report the numerous changes, which take place in the subordinate classes employed, such as overseers, constables, etc., and I trust my not doing so will not be a bar to the final audit of the Public Accounts.

I have, &c.,

Ra. Darling.

Governor Darling to Sir George Murray.

(Despatch No. 19, per ship Lady Blackwood; acknowledged by Sir George Murray, 6th December, 1829.)

18 Feb.

Sir, Government House, 18th February, 1829.

Transmission of report on female factory.

I have the honor to transmit for your information copy of the Report of the Board of Management of the Female Factory for the Half Year ending the 31st of December, 1828, together with such of the documents connected therewith as appear necessary to elucidate the statements contained in the Report.

It will be seen that the numbers of Women, who have been sent out during the last two years, are much beyond the demand

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of the Settlers, and that consequently the Factory has been most inconveniently burthened, there being no other place in which these Women could possibly be kept. This inconvenience would have been still more severely felt, had not the Lieutenant Governor of Van Diemen's Land retained one of the Ships last year intended for this Colony, by which this Establishment was relieved of one hundred Women.

Excessive number of female convicts.

I have not yet had time, having only just now received the Report, to consider or Act upon it; but I shall take the liberty of drawing your attention briefly to the state of the Establishment on the 31st of December, 1828, with reference to that of the preceding year, showing the number of women arrived and disposed of during the last year:

Comparative annual figures *re* female convicts.

Number in the Factory on the 31st of December, 1827	366
Arrived during the year 1828, one of the ships intended for this Colony having been detained at Van Diemen's Land	371
Total	737
Remained in the Factory on the 31st December, 1828	537
Assigned and discharged in the year 1828	200

I shall now state the result of the three years since my assuming the Government, "Vizt.," 1826, 1827 and 1828:

	Women.	Children.
Remained in the Factory at the end of December, 1825	226	15
Arrived during the years 1826, 1827 and 1828	1,074	
	1,300	
Remained on 31st December, 1828	537	71
Assigned and Discharged in the years 1826, 1827 and 1828	763	

Free women serving sentences in factory.

In addition to the 537 Women and 71 Children, who remained on the last day of December, 1828, there were also 36 free Women in the Factory (sentenced to be confined in that Establishment, there being no House of Correction for females in the Colony), making the total number maintained 644 independent of the Matron and other Free Persons employed in the charge of the Establishment.

Difficulty in employing women in factory.

Much pains have been taken to devise means of Employment for these Women; but their number is so great, it has been found impracticable to furnish them with constant occupation. It is now proposed, as a means of accomplishing this desirable object as far as may be possible, to transfer the Weaving Establishment to the Factory, and get rid of the Individuals employed in this Branch, which would be a saving of the Expense of Maintenance of about 30 men. But the object, which I have been still more

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anxious to accomplish, is finding means to distribute the Women more generally in an unobjectionable manner, and thus relieve the Factory and the Government from their superintendence and maintenance. It has been suggested, as will be seen by the Report, to grant the well behaved women Tickets of Leave after short periods of Probation as a means of affording them an opportunity of marrying or settling in some line of Business. That it will fail in most instances, I have little doubt from the general character and depraved disposition of these Women; But, if it succeed in a few instances, it will justify the experiment, and those, who prove themselves undeserving the indulgence, will of course be remanded to the Factory.

Proposal to grant tickets of leave after period of probation.

Proposed additions to building.

I have not yet decided as to the additions to the Building proposed by the Board; but they appear indispensable to the comfort of the Establishment, with reference to its increased numbers, and I shall be glad to adopt any expedient which may render it unnecessary to provide other Buildings for the accommodation of the Women.

Proposal to suspend transportation of female convicts.

I should take the liberty of suggesting in this place that no women should be sent out for a period of twelve months, as in that time a proportion of those now in the Factory would probably be permanently disposed of. The chance is that those will not be taken, if other women come out; and I strongly recommend that no Women from Ireland may be sent for some time, the inhabitants appearing to have a strong objection to receiving them.

Annual expenditure on female factory.

I shall now take leave to advert to the Expenses incurred on account of the Establishment. It appears that the gross charge, including both superintendence and maintenance, was £3,298 9s. 6½d. in the half year, and that the value of the work done by the Women, being estimated at very low rates, amounted to £1,210 10s. 8d. in the same period; so that the expense of 573 Women and 71 children for one year may be stated at £4,175, or taking the average of Women and children at *less* than £7 each Individual.

Commendation of matron and committee.

Having, in my Despatch No. 75 of last year, adverted to the very small Establishment which is kept up for the Superintendence of the Factory, the expense at present being at the rate of only *£470* per annum, I have great pleasure in stating that it continues to be conducted in the best manner by Mrs. Gordon, the Matron, under the Superintendence of the Managing Committee, consisting of the Gentlemen named in the Margin,* and that the Women occasion much less trouble than could possibly

* *Marginal note.*—Rev. S. Marsden; Captain Dumaresq; G. T. Palmer, Esq.; M. Anderson, Esq.

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be expected, considering their numbers and that they are generally selected from amongst the worst characters of the English and Irish Female Prisoners. I have, &c.,

RA. DARLING.

P.S.—Having reported in the Month of May last on the State of the Factory, I did not think it necessary to forward the Report of the Board for the first Half Year of 1828. I advert to this now, as that Report is occasionally referred to in the accompanying Report. I have understood since closing my Despatch, that no convicts of either Sex are ever sent from Ireland to Van Diemen's Land. I have not been informed of the reasons, but unless it is one of importance, I would beg to suggest that this Colony may be relieved of a portion of the Irish Convicts, particularly of the Women usually sent here.

Destination of convicts from Ireland.

R.D.

[Enclosure.]

REPORT of the Board of Management of the Female Factory for the Half Year ending the 31st December, 1828.

Report of board of management of female factory.

1st. The number of Convict Women in the different Classes of the Establishment is:

Number of women in factory.

First Class	208	
Second do	107	
Third do	173	
Hospital	49	including 6 nurses.
Total	537	

Crown Prisoners, which, with 36 free Persons, committed as to House of Correction, make 573 Women and 71 children. Total 644 persons, showing an increase during the Half Year of 63 Crown Prisoners. 19 free persons, and 12 children, as per Statement No. 1 accompanying.

2nd. The number of Crown Prisoners received into the Establishment and discharged from it during the Half Year is, Viz.:—

Number of female convicts received and discharged.

Receipts.		
From Ship *Competitor* not being assigned	19	
City of Edinburgh	39	
Private Service to 1st Class	210	
do to 2nd do	5	
do to 3rd do	275	
		548
Discharged.		
Assigned to Service	381	
Returned to do	38	
„ Husbands	33	
Original Sentences expired	10	
Married	12	
Dead	9	
Absconded and not returned	2	
		485
Increase of Crown Prisoners		63

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3rd. The accompanying Statement No. 2 exhibits the number of Free Persons sentenced as to House of Correction:

Report of board of management of female factory.

Remained 1st July	17	
Received	81	
		98
Free persons under sentence. Discharged Fines expired		62
Remains 31st Decr., 1828		36

Showing an increase of 19 free persons.

The comparison of the years 1827 and 1828, as shewn in Statement No. 1, proves an increase to the Establishment of 171 Crown Prisoners.

Convicts available for assignment.

4. There are now in the first class from which the Assignments take place, 107 available for Service; the remaining 101, from causes subjoined, cannot be considered as eligible, Vizt.:

Monitresses	6	
Cooks and other Servants	30	
Old and infirm	5	
Advanced in pregnancy	6	
Having young children	54	
		101
Available for Service		107
Total of the Class		208

Use of factory as maternity home.

5th. The Board would here call the attention of the Government to the fact of the great increase, which appears to take place by Women coming to the Establishment to lye in, and would suggest that some measure might be adopted to oblige the Fathers to provide for their illegitimate offspring by the payment of a sum of money, or a weekly rate for its support; and they could hope such a measure might tend to induce parties to marry, who now never think of such an ordinance; but a serious difficulty presents itself to such a measure, from the belief they are obliged to entertain that many of the Women are so bad that, to gratify any purpose they might form, they would not hesitate to swear their children to any one; and, in the case of a Master turning away servants, it is not improbable, as a means of revenge, they might not infrequently accuse him of being the father of their children.

Proposed payment by fathers.

Responsibility of husbands for maintenance of wives.

6th. A Legislative enactment also appears to be called for to oblige Husbands to withdraw from this Establishment their wives, who are sent to it for a limited punishment, when such has expired; in several instances now in the Establishment, the committing Magistrates have ordered, on sending married Women, that their husbands are to pay the Expenses.

The Board are at a loss to know how to charge and levy this sum. Other cases occur in which the Wives being Prisoners, and married to free or Ticket of Leave men, are kept in the Establishment after their fine or punishment has expired; and, in all such cases, the Board would recommend that a Law be passed, authorizing by summary process that *three shillings* a day be levied on the Husband to provide for the maintenance of the Wife. It is true this sum will much more than pay the actual expenses of the

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Women; but the measure carries with it a second object, that of preventing Numbers accumulating in this Establishment.

Report of board of management of female factory.

7. The general health of the Establishment continues undiminished, though for some short time past "Ophthalmia" has spread among the Women and prevails as an Epidemic, increasing the numbers in the Hospital to an extent beyond the means of the Establishment to provide. In consequence, one of the sleeping Wards of the Second Class has been appropriated in aid of the Hospital Establishment.

Prevalence of ophthalmia.

Deaths.

The Number of Deaths (9) of Women belonging to the Establishment exceeds by one only those of last Half Year, the particulars of which are detailed in the Surgeon's Report No. 4 accompanying.

Treatment of sick females.

It may perhaps be necessary to observe that this Establishment is the receptacle (with the exception of a single Ward, appropriated to Females in Sydney) for all the Females in the Colony who require medical aid.

Conduct of inmates.

8. The conduct of the Women during the Half Year has been good with a few exceptions; some two or three of the most troublesome having been obliged to be punished as often as six times. Punishment has however decreased notwithstanding the increased number in the Establishment; the accompanying Return No. 5 Contains but 261 cases of Punishment during the Half Year, shewing a diminution of 59 cases on that of the preceding, proving most satisfactorily the advantages arising from the improved order and discipline of the Establishment. The crimes are of an ordinary character, and therefore do not appear to call for any particular observation from the Board, further than was noted in their last report, being of the same character, vizt., Drunkenness, insolence and obscence Language.

General management.

9th. The Board find the Regulations of the Establishment duly observed; the books required by the Establishment are in good order, and are neatly kept by the parties having charge of them. The Matron states that Morning and Evening Prayers are read by herself to the Protestants, and by one of the Monitresses to the Catholics, and that good order and attention is observed.

Commendation of matron.

10th. It is pleasing to the Board to have it in their power to report their continued satisfaction at the cleanliness, order, and regularity observable in the Establishment, and their approbation of the manner in which the Matron, Mrs. Gordon, performs the arduous duties of her Office; the Assistant Monitresses of the different Classes, who are selected from among the Prisoners of the first Class, give satisfaction in their appointments. Mrs. Gordon however complains that she does not receive such assistance, as she might do from the Free Women appointed Matrons of the Classes, a source of difficulty to the Board and Managing Committee, who have had much trouble in procuring them, and are at a loss to know where to obtain others to replace them.

Diet for children.

11th. The Board had occasion to observe in their last Report, under the recommendation of the Surgeon, that the Diet allowed to the children of the Establishment might with advantage be altered, and their recommendation met with Your Excellency's ready sanction. The Surgeon now reports that the result of the

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measure has not turned out so favourably as was anticipated. The Board therefore again solicit Your Excellency's sanction to its change, substituting the following as the scale of diet for the children, Vizt. :—

Report of board of management of female factory.

Under one year—Six ounces bread and eight ounces or one half pint of milk.

Diet for children.

From 1 to 3 yrs. old—Twelve onnces bread, sixteen ounces or 1 pint of milk and 4 ounces of beef or mutton.

Employment of inmates.

12th. The employment of the Women of the Establishment is attended to as far as possible in the present state of the Building. The late alterations and additions by no means contemplated the possibility of the present numbers being thrown upon the Establishment; and it is apparent to the Board, unless some effectual steps are taken either to restrain importations, or otherwise devise means by which the Women may be more distribnted, additional Buildings mnst be erected to provide for the growing necessities.

Proposed room for weaving.

As it is, with the view of giving more employment, the Board have to suggest that an additional Room may be added to the Penitentiary for the purpose of carrying on the Weaving, whereby it is hoped that additional labour for the Women will be obtained. The factory will have then within its Walls the means of Spinning, Weaving, and making up the whole of the clothing required by Government for the Convicts in their employ. To this end, the Board beg to forward a plan of the Building required, together with an Estimate, which amount to the sum of £42 13s. 8½d. as a money Expense, and £103 9s. 8d. for Convict Labour. The Board are reluctantly obliged to press the necessity of this Building. It is however a satisfaction to think it will prove a measure of economy to Government by enabling the present Weaving Establishment to be broke np, thereby causing a saving in the amount equal to the expense of that Establishment.

Proposed verandah.

13th. The Board, while thus under the necessity of adding buildings to the Factory, beg to point out the importance of shading the front of the Hospital with a Verandah. The Surgeon considers it essential, as a place where he can receive the cases which daily apply for admittance.

The Committee also, during the time they are employed assigning the Prisoners, experience the want of a similar shade, and therefore again nrge Your Excellency to sanction this trifling Work, the Expense of which, as shewn in the Accompanying Estimate, will be bnt £12 17s. 10d. money Expense, and £24 1s. 6d. for Convict Labour.

Net half-yearly expenditure.

14th. From the Accompanying Statement of the Expenses of the Establishment for the Half Year, shewing also the Value of the Labour performed, it appears that the Total Expenses have been £3,298 9s. 6½d., that the Valne of Labour is £1,210 10s. 8d., leaving a Balance of £2,087 18s. 10½d. against the Establishment, being less than the proceeding Half Year by £371 3s. 9½d., although, on a daily average of Numbers, there has been 17 Women and 9 Children more maintained.

Proposed system for tickets of leave.

15. The result of each half Year proving that the Establishment is encreasing owing to the importations exceeding the demand for Female Labour, it is with feelings of some satisfaction, the attention of the Board has been directed to the snbject of a modificatlon of the present system of granting Tickets of Leave and Indulgencies to the more meritorious of this Class of Females, as called

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for by the Colonial Secretary's Letter of the 16th January, 1829. The Board are as much disposed to believe, as to hope, a measure of this nature may be attended with beneficial results. In considering the subject, they have to propose their opinion that Tickets of Leave might be granted as follows, Vizt.:—

Report of board of management of female factory.

Proposed system for tickets of leave.

To Women under Sentence for Seven Years, for continued good Conduct in Service, or in the Married State	2 Years
14 Years' Sentence	3 do
Life	4 do

As the first Class of this Establishment is considered as an Asylum and not a place of Punishment for the unappropriated Female Prisoners, Women returned to the first Class will not be considered as having forfeited their Claim to a Ticket of Leave, as it must be inferred that they have committed no offence in their Service, or they would have been punished by being sent to the third Class. The same Indulgence might also be extended to Monitresses in the Estt., who retain their Situations for the periods specified, such employment being considered as a Service. Women, who have been permitted to Marry, should their Husbands die or absent themselves, if they have lived two, three or four Years, according to the period of their Sentence, without being complained of or becoming known to the Police, to be equally eligible to have Tickets of Leave.

General condition of factory.

16th. In reviewing generally the state of the Establishment, its operation and progress during the Half Year, the Board are pleased to have it in their power to report favorably on all its branches, with the exception of the encrease to its Numbers, over which, arising as it has done from the extent of the importations, they can have no control; Punishments have diminished, and, although the Labour of the Women has not been pushed so far as could be wished, its value has encreased sufficient to diminish the Expense of Maintenance below what it was calculated at the last Half Year. In concluding their Report, the Board have much pleasure in adverting to the circumstance of the formation and introduction into the Establishment of a Ladies' Committee, composed of the principal Ladies in the Neighbourhood, actively encouraged and patronized by Mrs. Darling, the object of which is, by the adoption of an Evening School, to inculcate moral Instruction, and excite and raise into being a better feeling for their condition, and a desire to improve (by becoming good Servants) their Stations in Society. The Ladies also hold out encouragement to Work during their leisure time, intending from the proceeds of their Labour to form a fund from which to reward those who have remained long in their Services with good Characters.

Formation of ladies' committee.

The Board need hardly remark that they anticipate much good to result from the interest taken in the Establishment by the Ladies' Committee.

Alexr. McLeay.	T. de la Condamine.
S. Marsden.	M. Anderson.
W. Lithgow.	A. C. Innis.
W. Dumaresq.	

Female Factory, Parramatta, 19th January, 1829.

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Return of prisoners received and discharged.

[Sub-enclosure No. 1.]

STATEMENT of Female Prisoners Received and Discharged, from the Factory at Parramatta from the 1st July to the 31st December, 1828, inclusively.

	(Crown Prisoners.)		Women.	Children.
	Remained 30th June, 1828		474	59
Received	Ship Competitor	19	548	12
	do City of Edinburgh	39		
	Private Service to 1st Class	210		
	do to 2d do	5		
	do to 3d do	275		
			1,022	71
Discharged	Assigned to Service	381	485	
	Returned to do	38		
	do to Husbands	33		
	Original Sentences Expired	10		
	Married	12		
	Dead	9		
	Absconded and not Returned	2		
	Remains 1st January, 1829		537	71

Increase during the Half Year 63 Women and 12 Children.
The Board of Management, Female Factory, Parramatta.

[Sub-enclosure No. 2.]

Return of crown prisoners in factory.

RECAPITULATION of Crown Prisoners in the Factory 1st January, 1829.

First Class	208	
Second ,, ...	107	
Third ,, ...	173	
Hospital (including 6 Nurses)	49	
Total	537	Persons.

State of the 1st or Assignable Class.

Monitresses	6	
Cooks and other Servants	30	
Old and infirm	5	
Advanced in pregnancy	6	
Having young Children	54	
	101	
Available for Service	107	
Total (as above)	208	

Comparative statement.

COMPARATIVE Statement of the Establishment at the end of the Years 1827 and 1828 respectively.

Remained 31st December, 1827		366	
Ship Elizabeth (4)	192	371	
Competitor	99		
City of Edinburgh	80		
Total		737	
Remains 31st December, 1828		537	
Actual Distribution		200	

Although there has been a falling off in the number of Prisoners arrived from England by 126 during the Year 1828 (a ship with 100 intended for this Colony having been detained at Van Diemen's Land) compared with the arrivals of 1827, yet, by the preceding statement, it is shewn that the Establishment has increased during the Year 1828 by 171 Crown Prisoners.

JOSEPH TURNER, Clerk.

Daily average of inmates.

MEMO.—The Average Number of Crown Prisoners and free women daily, for the period of the Half Year, is 512 Women and 61 Children, being an increase on the preceding of 17 Women, and 9 Children. J.T.

[Sub-enclosure No. 3.]

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[*This balance-sheet detailed an expenditure of* £3,298 9s. 6½d., *and a revenue, from clothing, etc., manufactured, of* £1,210 10s. 8d.]

Balance-sheet.

[Sub-enclosure No. 4.]

Statement *re* free persons committed to factory.

STATEMENT of Free Persons Received and Discharged from the Penitentiary at the Female Factory, Parramatta, who have been committed (as to House of Correction) from the 1st July to the 31st December, 1828, inclusively.

Remains 1st July last	17	
Received during the Half Year	81	
Total	98	
Discharged Fines Expired	62	
Remains 31st December	36	
Increase during the above Period	19	Women.
Comparison, the end of the Year 1827 with 1828.		
Remained 31st December, 1827	30	
Remains 31st ,, 1828	36	
Increase during the year ,,	6	Persons.

The Committals of the above Class of Women are generally for Vagrancy, whose sentences are commonly from one to three Months.

JOS. TURNER, Clerk.

The Board of Management, Female Factory, Parramatta.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 20, per ship Lady Blackwood.)

Sir, Government House, 19th February, 1829. 19 Feb.

Transmission of report of trustees of clergy and school estates.

I have the honor, in conformity with the 35th Clause of the Charter of the Church and School Estates, to forward herewith the Report of the Trustees for the two years commencing in March, 1826, and ending the 29th of February, 1828.

Having frequently of late had occasion to explain the reason of the Trustees not having been put in possession of the Land to be granted to them under the Charter, and having since, in my Despatch of the 11th inst. No. 14, had the honor of reporting to you that certain Lands therein pointed out had lately been transferred to the Trustees, I am not aware that it will be necessary to enter further into the subject in this place, or that I have anything to offer on the subject of the Report generally, which would be likely to prove useful matter of information.

Lands transferred to trustees.

I should naturally have been desirous to put the Church in possession of their Land, if only to relieve the Colonial Revenue from the demands, to which it has been subjected on Account of the Stipends of the Clergy and the Expense of the School Establishments, which at present amount to little short of £20,000 per Annum. But I have also felt how desirable it was that the Trustees should possess the means of extending those Establishments and of making provision for the more general performance

Desire to give possession of land to trustees.

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of Divine Worship. The distressed state of the Colony however will, I apprehend, prevent the Sale of the Land for some time; but, being in possession, the Trustees will be enabled to avail themselves of the first opportunity which may present itself of disposing of or Leasing it to Persons, who may have the means of purchasing or renting any portion of it.

Disposal of land by trustees.

I have, &c.,
RA. DARLING.

[Enclosures.]

Enclosures to despatch.

No. 1. Report of the Proceedings of the Trustees of Clergy and School Lands in New South Wales from 9th March, 1826, to 29th February, 1828.
No. 2. Appendix to ditto.
No. 3. Charter appointing Trustees of ditto.
No. 4. Act vesting Orphan School Estates in Trustees of ditto.
No. 5. Statutes of Trustees of ditto.
[*Copies of these papers will be found in a volume in series VII.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch marked "Private," per ship Waterloo.)

20 Feb.

Dear Sir, Downing Street, 20th February, 1829.

The enclosed Letter addressed to Lord Francis Leveson Gower is from Mr. Moore, a gentleman to whom his Lordship gave a letter of introduction to you last year. Since then Mr. Moore has experienced great misfortunes, as his letter sufficiently shews. I fear it will not be in your power to repair the disasters of Shipwreck in the manner Mr. Moore wishes; at the same time, as I believe him to be a very respectable man, I am anxious he should meet with your support, in furtherance of his views, so far as it may be in your power to serve him without infringing on any established Regulations.

Recommendation in favour of J. H. Moore.

I remain, &c.,
R. W. HAY.

[Enclosure.]

MR. J. H. MOORE TO LORD FRANCIS LEVESON GOWER.

My Lord, Rio Janeiro, 10th December, 1828.

With reference to the interview your Lordship was pleased to grant me on the 11th March last at the Colonial Office at the instance of my late respected friend Sir Henry Torrens, my Brother in law the Provost of Trinity College, Dublin, and my friend and relative Mr. Moore, the Member for Dublin, on the subject of my application for a situation under Government at New South Wales, and a suitable grant of land, and the very flattering and kind reception your Lordship was pleased to bestow on me on that occasion and the interest you then evinced for my welfare, when handing me your official letter in my favor to His Excellency General Darling, I have now once more to intrude myself on your Lordship's notice under circumstances of peculiar misfortune, which I trust and hope may induce a further extension of your patronage and interest.

Previous interview at colonial office.

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I embarked in a passenger Ship the "Letitia" of Dublin with my family (say 4 children wife and servant) on the 20th July last to proceed to N. S. Wales, having on board all the property I could command; we reached the Cape de Verd Islands on the 15th August, and, on the 19th, whilst I was on shore, owing to the misconduct of the Captain and Crew the ship was suffered to go on shore, and in a few hours became a complete wreck, leaving me and my family destitute of every thing save the clothes we had on us. Through the kind attention of Mr. Goodwin, the Consul at Cape de Verds, we have been forwarded here, and the Vice Consul at this Port has under the sanction of the Right Honble. Lord Ponsonby arranged for our proceeding to N. S. Wales in a few days.

Loss sustained by shipwreck.

Deprived by this calamity of every means of support on my arrival at Sydney, and having now solely to depend upon such situation as the Government may be pleased to grant me, I hope your Lordship will excuse the liberty I thus take in throwing myself again upon your Lordship's kind consideration and attribute it to the natural anxiety I as a father and husband must feel to provide for his family.

My present object is to solicit that under the peculiar misfortune of my case that your Lordship would be pleased to influence as immediate a confirmation of an appointment in my favor on my arrival at Sydney, as may be consistent with the convenience of the Government.

Request for appointment at Sydney.

Should your Lordship unfortunately look upon this application as an intrusion, I have only to offer as my best and truest apology the encouragement, I feel from your Lordship's very kind attention to me in March last, and which under every circumstance I shall remember with the truest gratitude. I have, &c.,

JAS. HENRY MOORE.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 21, per ship Lady Blackwood; acknowledged by Sir George Murray, 7th December, 1829.)

Sir, Government House, 20th February, 1829.

I find I have omitted to report from the pressure of Business that the Arrears in the Office of the Principal Superintendent of Police in Sydney had obliged me some time since to encrease the Establishment of Clerks in that Office.

Increase of clerks in police office.

The business appears to have fallen so much in arrear that, even with the present Establishment, it will I am informed be some time before the several Returns and Reports, which are required, can be brought up. The general Return of the summary Jurisdiction of Magistrates, required by Act of Parliament to be forwarded to your Office Half Yearly, has been delayed, it having been impossible to obtain a return from the Sydney Bench since the Month of June last. I am aware that the Business of that Office requires not only numerous but competent Clerks, and that, by limiting the Number too strictly, the duties may have been materially impeded.

Arrears of business in police office.

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Appointment of clerks.

In order to remedy this evil, I have authorised the employment of an additional Clerk at a Salary of £150 per Annum, and appointed a Gentleman of legal Education to the Situation of Chief Clerk, with a Salary of £250 per Annum, which Office had been held by a Person, lately a Convict, of very doubtful character, who received only £150 a year.

Increase of salaries.

I have encreased the Salaries of two other Clerks, who have been some time in the Office, one from £91 5s. to £110, and the other from £73 to £90.

This I was perhaps authorised to do under the Arrangement, which has been approved, respecting the Salaries of the Clerks in the different Offices; but, as it became necessary to report the appointment of the Clerk who has been added to the Office, I have been induced to bring the arrangement generally under your consideration, and request your Authority for the additional Expense being admitted in the Public Accounts.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 22, per ship Lady Blackwood; acknowledged by Sir George Murray, 12th August, 1829.)

21 Feb.

Sir, Government House, 21st February, 1829.

I have the honor to transmit for your information the enclosed Copy of a Letter received from Mr. Macquoid, the Sheriff, pointing out the necessity of a trustworthy Clerk being appointed to his Office; and, concurring as I do in the necessity of the Appointment proposed, I have authorised the Sheriff, until I receive your orders, to employ a Clerk at a Salary of £150 per Annum, to be encreased annually for a certain period, according to the rule laid down in these Cases.

Clerk to be employed by sheriff.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. T. MACQUOID TO COLONIAL SECRETARY MACLEAY.

Sir, Sheriff's Office, Sydney, 6th February, 1829.

Request for additional clerk by sheriff.

I beg you will take an early opportunity of submitting my request to His Excellency the Governor that I may be permitted to employ an additional and competent Clerk in this office at such Salary as His Excellency may be pleased to fix.

Increase in duties in sheriff's office.

The present Establishment I find to consist of the Under Sheriff and a Clerk named William Flynn, who is a Prisoner. Some Idea may be formed of the great accumulation of Business which has lately arisen in the Sheriff's Office, partly owing to the pressure of the times, when I mention that upwards of Seven Hundred Summons's have issued through it since the 1st of January, exclusive of Writs and other Processes.

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Independent of the Quantity of writing, which these duties impose, the constant attendance of the Sheriff or his Deputy is required in Supreme Court, and in the several Courts of Quarter Sessions, while sitting; it is frequently necessary for the Under Sheriff to be absent at Sales, and the Sheriff's duty require him occasionally to visit the different Gaols of the Colony. It will therefore be obvious that the office, as it exists at present, must very often be left without one efficient and trustworthy person; whereby the Crown may suffer great loss, public Business be unavoidably delayed, and the Sheriff exposed to much risk from the imperfect manner in which his duties must necessarily be performed.

Necessity for competent clerk.

I confidently trust that what has been stated will establish sufficient grounds to induce His Excellency to Comply with my request; and further, that he will be pleased to direct a steady Prisoner to be assigned to the Sheriff's Office, to act in the Capacity of Messenger, there not being a person of that description attached to it.

Request for messenger.

I have, &c.,
T. Macquoid, Sheriff.

Governor Darling to Sir George Murray.

(Despatch No. 23, per ship Lady Blackwood; acknowledged by Sir George Murray, 15th November, 1829.)

Sir, Government House, 22d February, 1829. 22 Feb.

I do myself the honor to transmit for your consideration the accompanying Copy of a Correspondence, which has lately passed between the Chief Justice and Myself on the Subject of the Salaries of the Clerks employed in the Office of the Supreme Court.

Transmission of correspondence re clerks in supreme court.

Mr. Carter having resumed his Situation as Master, I concluded that the Clerks, who had been performing his duties and received an addition to their Salaries in Consequence, would revert as Matter of Course to their former situation; but it appears, though an additional Clerk was subsequently appointed at the Chief Justice's desire at a Salary of £200 per Annum, as reported in my Letter of the 4th of March, 1828, No. 26, that he now considers it necessary that the 1st and 2d Clerk should continue to receive the same Salaries as during the Suspension of the Office of Master.

It is not my intention to offer any opinion on the subject, as it is impossible for me to judge of the Necessity of the Measure proposed by the Chief Justice.

I have, &c.,
Ra. Darling.

[Enclosure.]

Chief Justice Forbes to Governor Darling.

Sir, Sydney, 10th February, 1829.

I took the earliest occasion to lay Your Excellency's Letter, addressed to me under date the 10th ult., relative to the Salaries

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Opinion of judges *re* salaries of clerks in supreme court.

of the 1st and 2nd Clerks of the Supreme Court, before the Judges, and I am requested by Their Honors to bring the following particulars under your Excellency's Consideration:—

Referring to the arrangement made for the temporary discharge of the office of Master, and the consequent encrease of the Salaries of the 1st and 2nd Clerks, it would follow as of course that, upon the Master resuming his office, the Salaries should be placed at their former Amount. But Your Excellency will bear in remembrance that, prior to the arrangement alluded to being made, the Chief Justice had the honor to call Your Excellency's attention to the state of the Ministerial Officers of the Supreme Court, and the disproportioned manner in which they were paid, with the view of the same being brought under the Consideration of His Majesty's Government. Upon its being made known to the Clerks of the Supreme Court, on the receipt of Your Excellency's last Letter, that their Salaries were to be placed upon the same footing as they stood, antecedent to the temporary suspension of the Master's Office, They severally addressed the Judges upon the subject. I have the honor to enclose Copies of their Letters, and to recommend them to Your Excellency's serious attention. The Judges entirely agree with the Clerks of the Court in thinking that their present Salaries are not higher than the Duties they discharge should entitle them to receive. On the contrary, they are of opinion that the Salary of the first Clerk should not be less than Five Hundred Pounds per Annum. Mr. Garner, who fills that Office, independently of his long tried and faithful conduct, and his possessing more experience in the Rules and practice of the Supreme Court than any other person, does in fact perform Work at a less Expense to the Public than any other Servant of the Crown perhaps in the Colony. His Office Hours commence regularly at ten o'Clock every Morning through the year, and seldom terminate until the same Hour at Night; for this, he now receives the Sum of Four Hundred and fifty Pounds a Year.

Your Excellency will observe, on referring to Mr. Garner's Letter, that the Fees of his Office, at the time of the opening of the present Supreme Court in 1824, were equal to four hundred a Year; that, as a compensation in lieu of Fees, he then agreed to accept of a Yearly Salary of Three Hundred and Eighty Pounds; that, since this arrangement was entered into, the Business of the Court has encreased to at least Six times its former Amount, and his Duties have multiplied in the same Ratio, the Amount of Fees, received in the Supreme Court from the Month of May to December in the Year 1824 and accounted for to the Public Treasury, being £653 7s. 7½d., making an average of between eight and Nine Hundred Pounds for that Year, while the Amount paid over last Year was £1,762 7s. 10d.; and if to this Sum be added the difference between the Expenses of Conducting a Suit under the old practice and the present economical Rules of Court, the Amount of Fees received for Business, actually done by the Clerks last Year, would very considerably have exceeded the Sum of Two thousand Pounds. It is clear, therefore, that the Treasury is a gainer by the arrangement with the Clerks of the Supreme Court, and that a net Surplus of full five hundred Pounds per annum arises to the Revenue out of the Labors of these assiduous and deserving Officers.

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Opinion of judges *re* salaries of clerks in supreme court.

It is true that the Fees of the Registrar and Master of the Supreme Court are by no means equal to their Salaries, and that the deficiency is, by the directions of the Secretary of State, chargeable upon the Funds of the Colony. But that circumstance does not alter the hardship of the Case of the Active Clerks, upon whom the burthen of Duty falls; it rather adds to it by the contrast, which it presents between themselves with Laborious Offices and a bare subsistence on the one side, and other Officers with ample Salaries and comparatively light duties on the other; and, until His Majesty's pleasure shall be known with respect to the future Ministerial Officers of the Court, this unequal state of things must continue, and I fear will embarrass the proceedings of the Court. Your Excellency will bear in mind that a Clerk of the Supreme Court, to be efficient, must possess some knowledge of the principles of the Law and some skill in the practice of the Court. These qualifications, united with habits of Business, open an immediate way to private practice and encreasing Profits; and therefore, unless the Remuneration offered to clerical skill and industry in the Supreme Court bear a due proportion to the inducements held out by the Emoluments of the Law as a profession, the Official Business of the Court must devolve upon inferior hands, and depend for its performance upon insufficient persons. I regret to state that Mr. F. Stephen and Mr. Rodgers, two very efficient Clerks, have expressed a wish to retire from the Office in the expectation of being able to better their Fortunes by entering into private Business.

Under these considerations, I am requested by the Judges to suggest to Your Excellency that the Salaries of all the Clerks in the Supreme Court should continue at their present Rates, until His Majesty's pleasure be known; or, should Your Excellency not accede to this suggestion, to propose that the private arrangement, made at my recommendation by which the Clerks receive Salaries in lieu of Fees, should be cancelled, and then the Judges will be enabled under the powers vested in them by Act of Parliament, so to apportion the Fees of the different Clerks that each will receive a Remuneration proportioned to the Duties he has to perform.

I have, &c.,
FRANCIS FORBES, Ch. Justice.

[Sub-enclosure No. 1.]

MR. J. GURNER TO CHIEF JUSTICE FORBES.

Sir, Supreme Court Office, 3rd February, 1829.

Statement by J. Gurner.

In consequence of what fell from your Honor in reference to the Salaries of the Clerks in the Supreme Court, I beg most respectfully to solicit your attention to the circumstances in which I am now placed, and which render my Situation far more laborious and much worse paid than it was five Years ago upon the Closing of the former Supreme Court.

Duties in supreme court in 1823.

In the Year 1823, there were 139 Actions commenced, of which 47 were brought to Trial; there were besides 104 Judgments on Warrants of Attorney and Cognovits, making a Total of 157 Judgments; at this period, my Salary and Fees amounted to the Sum of about £400 per Annum, and, whilst the above formed nearly the whole of

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my duties, I was enabled to pay attention to my private concerns, for which purpose I had sufficient time at my disposal.

Salary granted in lieu of fees.

When Your Honor assumed the Station of Chief Justice, you were pleased to state that I should receive a Salary in lieu of Fees, to the same amount as the latter had annually produced. To be within the Mark, I named the sum of £380, and stated that I would only remain at a yearly Salary of £400. Sometime after, I received my Salary at the former Rate, but, as it was paid in Dollars at 4s., I acquesced in the arrangement, and said no more about it. At this period, I had offers made me to leave the Supreme Court Office, and temptations were held out of more Emolument; contemplating however that, in proportion as the Duties of my Office encreased, and my labors became greater they would be proportionately remunerated. I declined such offers; I considered indeed that I had a right to expect this, because, as I had consented to give up Fees for an Annual Salary which was to bear some proportion to their Amount, I thought it equitable that, as the Business encreased, which would have made my Fees larger, the Salary should bear some proportion to such Increase.

Private employment refused in expectation of increased salary.

Revision of salary.

At the commencement of last Year, Your Honor took occasion, upon Mr. Carters being appointed Sheriff of the Colony, to recommend that my Salary should be augmented to £450 per Annum; But, as that Gentleman has now returned to his Office of Master, His Excellency the Governor appears to consider that the Salaries, which underwent an encrease upon his retirement, will be reduced to their former Amount upon his return. Understanding from Your Honor that you purposed to consider the subject in conjunction with the other Judges, I have taken the liberty of addressing this Letter for Your Honor's Consideration.

Effect of change in payments.

In the first place, it will be within Your Honor's recollection that, upon introducing the present system of payments abolishing the Dollar Currency, my Salary was in effect reduced eight per Cent.

Business in supreme court.

During the last Year, there were 1,410 Actions commenced, and there were 595 Judgments, exclusive of many cases remaining over; besides this, there were 231 Criminal Informations tried, which, until the present Charter, did not come within the Jurisdiction of the Supreme Court, which was entirely Civil; and Equity Business and Insolvent Cases have proportionately encreased: to all this may be added the Registration of Deeds, and various other matters which have been transacted in the Supreme Court Office.

Increase in business.

At the least, therefore, the Business of the Office at present is 6 or 8 times greater than it was in the Supreme Court of former times. Although the strength of the Office has been encreased within the last Year, yet in reality it is little greater than it was 5 Years ago, when there were two Courts and two Establishments of Clerks: but at all events my individual duties have encreased ten fold, the Expences of living are greater, my Family has become more numerous, and at the same time I have less means of support.

Request for increase in salary.

I hope, therefore, Your Honor will not consider me pressing improperly upon your attention, when I request that you will be pleased, in Consideration of my Services covering a period of 12 Years, instead of allowing a Reduction to be made in my Income, to recommend that my Salary may be augmented and fixed at such Amount, as my Services may appear to Your Honor to merit. Had I not enjoyed an almost uninterrupted series of good health for

1829.
22 Feb.

many Years, it would have been impossible for me to have performed the duties of my office; but I cannot hope or expect that this will long continue, with my present arduous and sedentary labors, and, at the same time from the smallness of my Salary, I have been utterly unable to make any future provision for my large and encreasing Family, which would be nearly destitute in case of any untoward event occurring to myself.

I have, &c.,

JOHN GURNER.

Chief Clerk of Sup. Court.

[Sub-enclosure No. 2.]

MR. F. STEPHEN TO CHIEF JUSTICE FORBES.

Sir, Supreme Court Office, 3rd February, 1829.

Statement by F. Stephen.

Having understood from Your Honor that it was contemplated by the Governor to reduce my Salary from the Sum of £300 to £200 per Annum, under the supposition that it had been encreased to the former Amount solely by reason of the temporary retirement of the Master from his Office, I beg leave respectfully to call Your Honor's attention to the following circumstances:—

Conditions of acceptance of office.

Upon Mr. Charles Moore quitting the Situation to which I succeeded, your Honor was pleased to offer me the Vacancy. I addressed a Letter to you, stating my acceptance upon condition that I should receive a Salary of £300, as it was not worth my while to enter the Supreme Court Office for less. I accordingly attended the Office with the full understanding that my Salary was fixed at £300 per Annum, and this Amount I have hitherto received. It happened at the same time that, upon the temporary retirement of Mr. Carter, your Honor proposed an arrangement by which his Duties were performed by Mr. Gurner and myself, and his Salary consequently became a Saving, upon which Your Honor did not hesitate to recommend an encrease in the Salaries of the 1st and 2nd Clerks. I beg however to state that, individually, I was no party to this arrangement, nor would I have accepted office, had I understood that, upon the return of the Master, my Salary was to be reduced to its former Rate; Because the extra duties, which devolved on me by that officer's temporary retirement, did not equal one fiftieth part of the ordinary Duties of my office.

Salary out of proportion to increase in duties.

During the period of my holding Office, the Business of the office has nearly doubled, and, when the New Act comes into operation, there will be fresh Duties imposed upon the Clerks, such as Registering Acts of Council, etc., so far therefore from consenting to a reduction of Salary, I feel that it is at present even too small, so much so indeed as to hold out no inducement to us to continue, particularly when the Expenses of living in this Colony are brought into consideration.

I have, &c.,

FRANCIS STEPHEN.

[Sub-enclosure No. 3.]

MR. G. J. RODGERS TO CHIEF JUSTICE FORBES.

Sir, Supreme Court Office, 4th February, 1829.

I have taken the liberty of addressing Your Honor upon the present occasion, as I understand that your Honor contemplates taking into Consideration the Salaries, which the Clerks in the

1829. 22 Feb.

Protest of G. J. Rodgers against reduction of salary.

Supreme Court Office now receive. It is my earnest wish to merit the kindness. I have experienced at Your Hands, by rendering every assistence in my power towards the performance of the Duties of the Office; and I should not now have troubled Your Honor, notwithstanding the Labors of the office have considerably encreased, but for the intention that has been expressed by the Government of reducing the Salaries of my Seniors, and thereby to my great discouragement putting an end to all hopes I might entertain of promotion beyond my present Income, in case of any Vacancy.

I trust Your Honor will not consider me Acting improperly in stating that, in Case of Mr. Stephen's retiring from Office, a step which he has intimated as likely to occur, I should feel entitled to succeed to his Salary; and that, were this expectation cut off from me, it would be much against my own advantage to remain in Office.

I beg most respectfully to add, that the Expenses of living in this Colony, and the prospects I entertain of better Remuneration elsewhere, compel me as a matter of prudence to this Resolution.

I have, &c.,

GEORGE J. RODGERS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 25, per ship Lady Blackwood; acknowledged by Sir George Murray, 16th October, 1829.)

24 Feb.

Exploration by A. Cunningham.

Sir, Government House, 24th February, 1829.

I do myself the honor of transmitting to you, in reference to my Despatch No. 133, dated the 19th of November last, the accompanying Report,* which Mr. Allan Cunningham had addressed to me on the subject of his late Expedition, the object of which was, and which has been most satisfactorily accomplished, to connect the line of his former Expedition (the Report of which was transmitted with my Despatch of the 12th of November, 1827, No. 19), with the River Brisbane.

Mr. Cunningham was accompanied from Sydney by Mr. Fraser, the Colonial Botanist, and proceeded by Sea to the Penal Settlement on the Brisbane, which runs into Moreton Bay.

They were joined at that place by Captain Logan of the 57th Regiment, the Commandant, and crossing the River at Brisbane Town (the Name of the Settlement) proceeded to the Southward in the hope of discovering a Pass through the Mountains, which separates the point where Mr. Cunningham's former Expedition terminated from the Coast. Being disappointed in this, they returned by a circuitous route and fell in with the River Bremer, which runs into the Brisbane at the head of the Boat Navigation.

They separated at that place, Captain Logan and Mr. Fraser returning to the Settlement, and Mr. Cunningham, taking a more Westerly course in pursuit of his original object, at length found an opening in the Range of Mountains, and thus completed the line of Communication between Hunter's River and

* Note 132.

the Brisbane; so that the whole Country from Sydney to that River has now been explored. 1829. 24 Feb.

I do myself the honor to forward three sketches, which are connected with Mr. Cunningham's Report and point out the course he pursued, with such other objects as attracted his attention, and he considered necessary to the completion of the Map of the Country over which he had passed. I have, &c., Exploration by A. Cunningham.

RA. DARLING.

[Enclosure.]

[*A copy of this report will be found in a volume in series V.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 26, per ship Eliza.)

Sir, Government House, 27th February, 1829. 27 Feb.

I have the honor to acquaint you that Captain William Dumaresq, late of the Royal Staff Corps, having retired from the Service for the purpose of Settling in the Colony, I have authorised his receiving a Grant of Four Square Miles of Land in conformity with the established Regulations. Land granted to W. Dumaresq as military settler.

As Captain Dumaresq holds the Situation of Director of Public Works, only until the arrival of Captain Wilson, who is expected out immediately to take possession of that office, I have not considered that Captain Dumaresq comes under the regulation, which prevents my granting Land to the Civil Servants of the Government.

I have been induced, Sir, to put you in possession of this case, as it is not improbable that it may be misrepresented, as others appear to have been, by factious and discontented Individuals.

I have, &c.,
RA. DARLING.

MR. A. WEDDERBURN TO GOVERNOR DARLING.
(Despatch per ship Waterloo.)

Sir, Downing Street, 1st March, 1829. 1 March.

With reference to a letter of introduction to you, which Sir George Murray gave to Dy. Commy. General Allan on the 2d Ultimo at the request of Sir John Owen, I am now directed to enclose a Petition from that Gentleman, and which Sir George desires me to say, he troubles you with merely for the purpose of bringing the Individual under your Notice, as he is unacquainted with the merits of the case otherwise than as they are stated in the Petition itself. I have, &c., Transmission of paper from D. Allan.

A. WEDDERBURN.

1829.
1 March.

[Enclosure.]

STATEMENT.

Request by D. Allan for appointment for his son.

MR. ANDREW ALLAN, who is now in the 29th year of his age, served for many years in the Commissariat Department under his father Deputy Commissary Genl. Allan, whilst in charge of the commissariat Department of New South Wales, and subsequently under his Successors; but, after ten Years' Service, despairing of promotion (for which he had been noted when Mr. Herries was Commissary in Chief), he retired from the service and became a Settler in that Colony. Sir Thomas Brisbane, the then Governor, gave him a grant of 2,000 Acres of Land, and at the same time appointed him to a situation in the Customs with an understood Salary of £400 pr. Annum. Lieut. General Darling succeeded to the Government before he had taken possession of his situation, and, certain new arrangements then taking place, Mr. Andrew Allan's appointment was not included! and, in consequence of his previous resignation in the Commissariat, he became with his family entirely dependant upon his Father and still continues so. He resides in the interior of the Country, and General Darling has appointed him Magistrate of the District.

He married some years ago Augusta, the second Daughter of the late Mr. Nicholas Bayly during his life time, and has a young family. His father and Mr. Bayly had long been intimately acquainted. Mr. Andrew Allan is much and justly respected! and, from education, natural talent, perseverance, habits of business and Gentlemanly demeanour, he is fully qualified for any Civil appointment in the Colony, High Judicial appointments excepted.

His Father, Depy. Comy. Genl. Allan, has served upwards of Twenty one years in the Commissariat; and, during the entire period of his active service, he was placed at the head of Departments of very considerable importance and great responsibility; and, during the whole period, Lieut. Genl. Sir J. W. Gordon and Mr. Herries respectively held the Office of Commissary in Chief, he was under their immediate command, and was frequently honored with their approbation.

In May, 1812, he obtained the Rank of Acting Deputy Commissary General, and, in farther approval of his services (as officially notified to him by Mr. Herries), he was confirmed in July, 1823. In 1822, he was appointed to the Commissariat at Barbadoes; but, after having made every necessary arrangement to proceed, he was prevented doing so by a severe long continued and dangerous Malady, which left him so debilitated that he was forced to forgo the appointment altogether in August, 1823.

Depy. Comy. Genl. Allan's family consists of a Wife and eleven other children entirely dependant upon him. He is therefore unable to continue that provision for the support of his eldest Son, either in a manner or to the extent which his affection as a Father would have otherwise induced him to do! It is therefore Mr. Allan's most anxious desire that his Son may obtain a Civil appointment of respectability in the Colony, which appointment, together with what Mr. Allan will still have it in his power to allot from his property in New South Wales, will enable him to maintain that rank in Society, to which he is entitled to aspire as well from education as from birth and connection.

Governor Darling to Sir George Murray.

1829. 1 March.

(Despatch No. 27. per ship Eliza; acknowledged by Sir George Murray, 9th November, 1829.)

Sir, Government House, 1st March, 1829.

I do Myself the honor to transmit, Conformably with the Instructions contained in Earl Bathurst's Despatch dated 23d February, 1825, No. 20, a Return of the Grants of Land which have been made during the Year 1828. I have, &c.,

Ra. Darling.

Transmission of return.

[Enclosure.]

Return of Grants of Land in the Colony of New South Wales in 1828.

Return of land grants in year 1828.

Number of Grants under 100 Acres	10	Grants	670 Acres.
Number of Grants under 100 not exceeding 500 Acres	8	,,	2,834 ,,
Grants in 1828.			
Originally Granted by former Governors and confirmed by Governor Darling	10	,,	9,390 ,,
Originally Granted by Governor Darling	91	,,	147,535 ,,
Total	101	,,	156,925 ,,
Total Number of Acres Granted in the Colony			2,894,929 ,,

County or District.	Name of Grantee.	Extent of Grant.
Unselected	Arundell, James	960
Durham	Auley, Ferdinand	1,280
Do	Brooks, William	640
Gullen	Bannister, Saxe	2,560
Unselected	Burroughs, S. M.	640
Durham	Bowen, G. M. C.	2,560
Unselected	Bell, John	2,560
Do	Brooks, William	640
Roxburgh	Clarke, Henry	1,920
Unselected	Cunningham, Peter	1,360
Northumberland	Cape, William	640
Do	Cowper, Miss S. M.	1,280
Durham	Chapman, Matthew	1,280
Do	Cameron, Hugh	1,280
King's Plains	Dixon, Margaret	640
Durham	Dowling, James	2,560
Do	Davis, J. M.	1,280
Unselected	Donnison, Henry	2,560
Northumberland	Drew, Samuel	960
Bathurst	Ellis, William	1,280
Argyle	Edwards, John	800
Unselected	Futter, Robert	560
Cumberland	Graham, Thomas	640
Unselected	Holt, James	1,280
Williams River	Hooke, John	2,560
Yass Plains	Hume, Hamilton	1,280
Unselected	Kiernan, Henry	1,280
Lake George	Keith, E. J.	1,280
Durham	Kelman, W. D.	640
Unselected	Kennius, Arthur	2,560
Northumberland, Westmoreland and Roxburgh	Lord, Simeon	17,813
Hunter's River	Lamb, J. F.	2,560
Unselected	Lang, J. D.	1,280
Northumberland	Lethbridge, R. C.	2,560
Unselected	Lambert, Robert	2,560
Durham	Middleton, G. A.	2,000
Unselected	Morrisett, J. T.	2,560
Roxburgh	McPherson, Peter	640

1829. 1 March.

Return of land grants in year 1828.

RETURN of Grants of Land—*continued.*

County or District.	Name of Grantee.	Extent of Grant.
Saint Vincent	Mitchell, T. L.	2,560
Unselected	Mann, John	1,920
Do	McAllister, L.	560
Argyle	McKellar, Duncan	640
Unselected	Maughan, John	2,560
Saint Vincent	Morris, W. T.	1,920
Unselected	Myles, Laurence	2,560
Do	Philips, Michael	2,560
Gunderoo	Palmer, John	960
Unselected	Perrier, David	1,280
Do	Pratt, William	640
Argyle	Reid, David	640
Northumberland	Rowe, John	2,560
Argyle	Stephen, John, Junior	2,560
Northumberland	Smeathman, C. T.	1,280
Argyle	Stephen, Sydney	2,560
Durham	Singleton, Benjamin	1,280
Gloster	Smith, Adam	640
Northumberland	Slade, John	640
Unselected	Smith, Richard	2,560
Northumberland	Stranger, Elias	640
Unselected	Scott, T. H.	2,560
Durham	Sullivan, Benjamin	2,560
Unselected	Smith, Eliza	1,280
Northumberland	Townshend, J. H.	640
Durham	Tooth, John	2,560
Unselected	Thompson, James	1,280
Do	Turner, Alexander	2,560
Do	Thomson, Walter	2,560
Do	Townshend, Morris	2,560
Do	Vincent, Robert	640
Do	Windham, George	2,560
Durham	Weller, J. B.	1,360
Molonglo Plains	Wood, Thomas	640
Goulburn River	White, William	1,280
Roxburgh	Walker, William	1,000
Northumberland	Warlters, Jeremiah	1,920
Durham	Windeyer, Charles	2,560
Unselected	Warland, William	640
Do	Wylde, H. V.	1,280
The above grants were "by Grant"; *the following* "by Purchase."		
Unselected	Cory, John	640
Bathurst	Wall, C. W.	2,432
Wolondilly River	Rossi, Francis	2,560
Unselected	Scott, T. H.	2,560
Bathurst	Stewart, Colonel	2,560
Unselected	Tate, George	1,920
	Total	156.925

T. L. MITCHELL, S'r G'l.

Surveyor General's Office. 10th January, 1829.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

9 March.

Recommendation of — Delves.

Dear Sir, Downing Street, 9th March, 1829.

This letter will be presented to you by Mr. Delves, who is about to proceed as a Settler to New South Wales. He has been recommended to my notice by Mr. A. R. Dottin, M.P. for Southampton, and I shall be glad, if it should be in your power, without departing from any of the existing Regulations, to forward Mr. Delves' views. I remain, &c.,

R. W. HAY.

* Note 3.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

1829
11 March.

Sir, Downing Street, 11th March, 1829.

Recommendation as military settler of S. S. Sealy;

I am directed by Secretary Sir George Murray to acquaint you that Captain Sampson Stowell Sealy, the bearer of this letter, is about to proceed to New South Wales with a view of settling in that Colony under the Regulations, which have been promulgated by His Majesty's Government for the encouragement of Officers of the Army to become Settlers in the Australian Colonies; and I am to desire that you will make a Grant of land to that Officer in conformity with these Regulations.

I enclose a copy of a letter from the Secretary of the General Commanding in Chief, by which you will perceive what have been the Services of this Officer. I am, &c.,

HORACE TWISS.

and of A. O'Donnel.

NOTE.—*Similar letter to above, dated 28th March, 1829, written on behalf of Lieutt. Arnout O'Donnel.*

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY TWISS.

Sir, Horse Guards, 13th Nov., 1828.

Services of S. S. Sealy.

Captain Sampson Storwell Sealy, late of the 8th Foot, having sold his half pay under the provisions of the General Order of the 24th August, I am directed, etc.†

I have, &c.,
FITZROY SOMERSET.

Ensign, 84 Foot—6 April, 1820.
Lieutenant, 84 Foot—13th Nov., 1823.
Captain ditto —19th Sepr., 1826.
½ pay, 8 Foot—6 Decr., 1827.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 30, per ship America.)

Sir, Downing Street, 15th March, 1829. 15 March.

Allowance for house rent to T. L. Mitchell.

I have received your despatch No. 130 of the 23rd December, 1827, in reply to one from Earl Bathurst relative to the Surveyor General's Department. The instructions, which you have subsequently received upon this subject, would have rendered any observations from me unnecessary, had I not perceived that you had allowed the Deputy Surveyor General an allowance at the rate of £100 a year on account of House Rent, which you report having sanctioned on the ground that, as the Assistant Surveyors are allowed £50 a year for House Rent, you could not make to Major Mitchell a smaller allowance than that above mentioned.

 * Note 3. † Note 181.

1829. 15 March.

Preference for fixed salary in lieu of house rent.

Objecting as I do to the principle of making such extra allowances to Officers who have a fixed Salary assigned to their situations, I would prefer the alternative of at once encreasing their Salaries, if proved inadequate in that proportion rather than that a separate allowance under the head of House Rent should be granted. In the case however which is now before me, I am not disposed to disallow the charge; but as, by my Predecessor's despatch of the 31st of March, 1828, greater advantages have been given to the Deputy Surveyor General than he previously enjoyed, I do not consider it necessary that the extra allowance in question should be continued to Major Mitchell's Successor.

I am, &c.,
G. Murray.

Governor Darling to Under Secretary Twiss.
(Despatch per ship Eliza.)

16 March.

Account for furniture submitted for approval.

Sir, Government House, 16th March, 1829.

I request you will be pleased to submit to the Right Honble. Sir George Murray the accompanying Account of Furniture, supplied for the Use of the Government House, the Amount of which £596 7s. 8d. I have directed to be charged in the Public Accounts.

The Government House,* when I arrived, having been in fact uninhabited for the four years preceding, was without Furniture, and the Articles now Charged, being considered Fixtures, were imported with others for the personal convenience of myself and Family.

I have been prevented by other matters from giving the attention, which would be required in building a suitable House for this Government, as I was authorised by Earl Bathurst. I have therefore satisfied myself with patching and repairing the present House and have supplied such Articles of Furniture only as were necessary to render it habitable. I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Account for furniture for government house.

Account for Furniture.

Sydney, New South Wales, 21st January, 1829.

The Department of Public Works Dr. to Lieut. General R. Darling.

For the undermentioned furniture for Government House, imported by His Excellency from England in the year 1825.

	£	s.	d.
A Set of Mahogany dining tables on turned legs with four flaps	35	0	0
A Spanish Mahogany Sarcophagus	10	0	0
A Mahogany sideboard 10 ft. long with 3 drawers in front on turned carved legs with back board	18	0	0
A Spanish Mahogany Circular Loo table, on turned carved Pedestal of fine wood	13	0	0
A Mahogany occasional table on turned Pedestals, made of Spanish Wood	8	0	0
A Mahogany library table on turned legs, 6 drawers, top lined with leather	14	0	0

* Note 185.

Account for Furniture—*continued.*

1829. 16 March. Account for furniture for government house.

	£	s.	d.
A Mahogany table desk top lined with purple leather	1	10	0
A Stuffed over Grecian Sofa on turned Mahogany feet with good brass Castors, with loose Squab and 2 Bolsters in fine Canvas	10	0	0
Two Mahogany Grecian Couches with Eliptic Ends on turned feet and good brass castors with loose squab and Bolsters in fine Canvas	24	0	0
Two Mahogany Library Chairs, with seroll tablet tops on turned legs and round Castors, with a seat Cushion and stuffed back, stuffed with best hair and lined in Claret coloured Morocco leather, tufted with silk Tuffs	17	0	0
Two stuffed over Gondola Chairs on turned feet and good brass Castors, stuffed with best hair, with seat Cushion in fine Canvas	8	8	0
Two stuffed over fauteuil Chairs on turned feet and good brass Castors, stuffed with best hair, with seat and back Cushion in fine Canvas	9	0	0
Cutting out cases and covering two Grecian Couches in Chintz lined with white Calico, edged with Cord and furnished with a gimp @ 22s. each.	2	4	0
Cutting out cases and covering two Gondola Chairs, lined with Chintz, and making Cushion cases complete, edged with Cord and furnished with a gimp	1	4	0
Cutting out Cases and covering two Fauteuil Chairs and making back and seat Cushion, edged with Cord and lined	1	8	0
Cutting out and making loose cover for sofa and making Bolster cases complete, with Tape, etc., used, edged with Cord	0	18	0
Cutting out and making two Rio Holland Covers for Grecian Couches, and making squab cases and Bolster Cases edged with Cord, with Tapes and Materials used	1	16	0
Cutting out and making four Rio Holland easy Chair Covers, and making Cushion cases, edged with Cord, with tape and materials used	2	2	0
For Covers for Sofas, Chairs, etc. — 76 yds. of fine Rio Holland at 1s. 4d.	5	1	4
— 26 do of White Calico at 1s.	1	6	0
— 20 dozen yds. of blue Cord @ 2s. 6d.	2	10	0
— 24 yds. of fancy gimp @ 7d.	0	14	0
— 2 blue twine Tassels for Bolsters	0	4	0
An Embossed Circular cover for Loo table lined and bound complete	1	8	0
Do Do occasional Do	1	5	0
Two 3 feet 6 Mahogany dressing tables with two drawers in good Spanish Wood	6	0	0
Six Mahogany Box top Bidets	8	8	0
A Spanish Mahogany Tea Poy fitted up with two Canisters and a cut Square Glass	6	0	0
Three Mahogany Chests of Drawers with 3 long and 2 short drawers	19	10	0
Two Tent Bedsteads with Mahogany carved Posts	7	0	0
Two Mahogany French Bedsteads	15	10	0
Two Mahogany Circular Moulded Canopies for Draperies	5	0	0
Two Mahogany Supper Trays	3	16	0
Two Mahogany Knife boxes 2 divisions	0	17	0
One Do Do 3 Do	0	9	6
Two Mahogany Bedsteads with night conveniences, steps covered with Carpet	6	0	0
Two Mahogany tray stands with stripe webb	1	5	0
Two Mahogany Butlers Trays	1	14	0
Two large size dressing glasses	8	0	0
Two medium do	6	0	0
Four Smaller do	6	16	0
A Round Mahogany Bason Stand	2	0	0
4 3/6 bordered hair Mattrass in Matrass tick cases for Beds	14	0	0
4 Cases for Paliasses	2	18	0
4 Bolsters filled with best feathers	4	2	0
Four Pillows filled with down	4	3	6
Making 9 Matrass cases and filling Do with hair with thread tape, etc., used at 6s. per	2	14	0
70 yds. Matrass tick case for Do at 1s. 6d. per	5	5	0
16½ dozen hair at 20s.	16	10	0
Opening 16½ dozen hair at 1s.	0	16	6
Two Mahogany Foot stools stuffed with hair	2	8	0
Men's time packing furniture in 46 mats Hay and Paper with 46 packing Mats, 7 trusses of Hay, 14 quires of double size strong Rio Paper, 10 Balls Pack thread, etc., used	10	18	0

1829. 16 March.

Account for furniture for government house.

Account for Furniture—*continued.*

	£	s.	d.
A close packing case for two library chairs 3 ft. long, 2 ft. 8 wide, 3 ft. 11 deep	1	10	0
A close packing case for Glasses 2 feet 4 long, 2 ft. 1 wide, and 13 inches deep	0	10	0
A skeleton packing 1 f. 10 square, 2 ft. 3 long, matted inside	9	9	0
Men's time packing the cases with Battens, screws, etc., used	1	14	6
For Window Curtains for Dining and Drawing Rooms. 3 pieces 4s. 4d. tea Cranbury Chintz 83 yards @ 2s. 3d.	9	6	9
2 Do 5s. 4d. Marigold Do 48 at 3s.	7	4	0
6 Do 4s. 4d. Blue Calicoes 168 @ 9d.	6	6	0
Swissing at 1s. a piece	0	11	0
For Window Curtains as above. 1 Piece 5s. 4d. Tea Marigold 24 yds. @ 3s. P.	3	12	0
2 Pieces 4s. 4d. Tea Cranbury 55 @ 2s. 3d. P.	6	3	9
2 do 4s. 4d. blue Calico 56 @ 9d.	2	2	0
Swissing @ 1s. a piece	0	5	0
6 Pieces Body 534 drab brown and Chintz Carpetting 192 yds. at 8s. 3d.	79	4	0
3 Brussels Rugs 75 do 636 @ 2s. 9d.	8	14	7
1 Piece comn. ¾ Venetian 228 drabs and white buff and blues border 80½ at 4s. 1d.	16	12	0
A deal case paper and wrapper	1	18	0
Cartage	0	4	6
	166	13	1
Deduct diset. 17 10 0			
less Commn. 2 8 0	15	2	0
	91	11	0
Curtains as above. Chintz 63 yds. at 2s. 3d. Pr.	7	1	8
Bed lace	0	13	6
	496	19	9
Freight, Insurance, Shipping and other Charges 20 per Cent.	99	7	11
Total Amt.	£596	7	8

I Certify that the whole of the Furniture and Articles enumerated in the foregoing Account were received in good condition, and have been duly appropriated for the use of Government House, Sydney, for which they were much wanted.

Wm. Dumaresq, Dir. Pk. Works.

We certify that we have carefully compared the whole of the items and charges in the foregoing account with these in the original Bills of the Tradesmen in London, by whom the Articles therein enumerated were supplied, and find them exactly to correspond therewith in every respect; that the whole of the said Bills are duly acquitted in full by the respective Tradesmen in proof of their having been paid by His Excellency Lieut. General Darling, and that we consider the prices charged to be much below those for which Articles of the same description could be purchased in the Colony, and further that, it not being practicable to distinguish the exact proportion of freight, shipping and other charges, we are of opinion that 20 per Cent. addition for the same is fair and reasonable.

Wm. Dumaresq, Dir. Pk. Works.
Wm. Lithgow, Audr.

[Enclosure No. 2.]

Colonial Secretary Macleay to Captain Dumaresq.

Sir, Colonial Secretary's Office, 16th February, 1829.

Account to be charged in contingent abstract.

In compliance with the request contained in your letter of the 13th inst., I am directed by His Excellency the Governor to inform you that he approves of your charging in your Contingent Abstract the Sum of £596 7s. 8d. (five hundred and ninety six Pounds, seven shillings and eight pence) for furniture purchased in England for the Government House, Sydney.

I have, &c.,

Alexr. McLeay.

a true copy:—Wm. Dumaresq, Dir. Pk. Works.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 28, per ship Eliza.)

1829.
17 March.

Sir, Government House, 17th March, 1829.

I have the honor to acquaint you, in reference to my Despatch of the 27th December, 1828, No. 142, in reply to that which you did me the honor to address to me under date of the 31st July, 1828, No. 18, that I have not yet received any communication from the Committee of the Australian Agricultural Company, in answer to the proposal which I made on the 29th December last to deliver over the Coal Mines at New Castle to the Company, as directed by your Despatch above referred to.

Delay in reply from A.A. company.

I have troubled you with this report in order that you may be satisfied that the Government is not answerable for the measure not having been carried into effect. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Eliza; acknowledged by under secretary Twiss, 28th December, 1829.)

Sir, Government House, 17th March, 1829.

I have the honor, in reference to the Private Letter which I addressed to you on the 28th of January last respecting the case of Hyam, Shoemaker, who had been recommended for a Grant of land, to request you will submit to the Secretary of State, the enclosed Copy of an application from F. Flanaghan, Tailor, residing in Sydney, in order that I may be informed of the intention of His Majesty's Government with respect to Tradesmen and Persons of that Class, who are not Agriculturists, receiving land.

Application from F. Flanaghan for land grant.

It appears that Flanaghan, who was a Tailor in Ireland, obtained one of the usual Letters from Your Office, which he delivered to me on his arrival in the Year 1827. I informed him it was not the practice to give Land to people of his Class, and recommended him to attend to his immediate Business. He appeared satisfied at the time, and I heard no more of him until Hyam obtained a Grant, when Flanaghan again came forward, and, considering his pretensions as good as the shoemakers, thinks himself aggrieved in not being placed on the same footing.

It is of course a Matter of perfect indifference to me whether these People receive Grants or not. I shall to the utmost of my power give effect to the Orders I may receive on the Subject.

The Statement of Mr. Flanaghan's *Capital, available* for agricultural purposes, will give you some idea of the pretensions of Individuals, who come out claiming Land in proportion to their

1829. 17 March.

Use of borrowed money to obtain land grants.

Property. More than one instance has been *known* (the occurrence, it is not unfair to presume, has not been confined to the discoveries which have been made) of Individuals having borrowed a Sum of Money for a day or two, which they Lodged in one of the Banks and drew again as soon as they had *verified their Capital* at the Land Board. I have, &c.,

RA. DARLING.

[Enclosure.]

Statement of capital by F. Flanaghan.

[*This letter was the usual printed application,* with capital detailed as follows*:—

Amt. Stock on hands	£1,015	9	0½
Book Accot. Debts	888	14	0½
Bills and Notes	211	4	10
Inventary of Furniture, Beds, Bedding, etc.	237	18	3
	£2,353	6	2]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 29, per ship Eliza.)

18 March.

Sir, Government House, 18th March, 1829.

Transmission of papers *re* gaols.

I have the honor to transmit for your consideration, in reference to Mr. Secretary Huskisson's Despatch No. 5, dated the 31st of October, 1827, the accompanying "Rules and Regulations" made by the Judges of the Supreme Court for the Government of the Sheriff, in regard to the Public Jails, together with Copy of a correspondence which has passed between the Chief Justice and Myself on the subject.

I beg to observe that the question appears to be:

Statutory power of sheriff to remove prisoners from gaol to hulk and *vice versa*.

1st. Whether the 2d Section of the Act of the Colonial Legislature, No. 5 of last Year, referred to in the enclosed correspondence, which is to the following effect, "Vizt.":—

"And it is hereby further enacted, that, from and after passing of this Act, all Prisoners now confined and imprisoned in the Gaol of Sydney, or who shall or may at any time hereafter be committed to or be liable to be imprisoned in the said Gaol of Sydney, either as a common Gaol or as a House of Correction, shall or may be imprisoned in the said Gaol of Sydney, or in the said Hulk or Floating Prison at the discretion of the Sheriff of the Colony of New South Wales, and as he shall deem expedient or necessary for the general safety and advantage of such Prisoners; and the Sheriff for the time being shall have the power of moving any Person or Persons, who may now be,

* Note 186.

1829.
18 March.

or who may hereafter be confined in the Gaol of Sydney, or in the said Hulk or Floating Prison, to and from each other as often and whenever he shall deem such removal necessary and expedient," does not give the Sheriff power to remove Prisoners from the Jail to the Hulk and Vice Versa, without any special order of the Judges, which Act was duly certified by the Chief Justice agreeably to the provisions of the 4th Geo. 4th, Ch. 96.

Question re power of judges to make rules at variance with act of council.

2dly. Whether the Chief Justice or the Judges of the Supreme Court have the power to make "Rules and Regulations" at variance with an Act of the Colonial Legislature?

I beg, Sir, with every possible deference to submit, if the powers, which, notwithstanding the Letter of the Chief Justice, I presume to be vested in the Sheriff by the 2d Section of the Act of the Colonial Legislature above referred to, be *unconstitutional and opposed to the express Laws of England,* as now stated by His Honor, that the more correct course will be to disallow the Act, which may not yet have received His Majesty's assent, than the Judges of the Supreme Court making Rules which would render the Act inoperative. The effect of such a proceeding, if once established, would be to nullify the Acts of the Legislature in cases where the Courts of Law were concerned. If the Act is not consistent with the Laws of England, it must of course be rescinded.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

[*This comprised "General rules* for the regulation and government of His Majesty's Gaol and Prison Hulk," which will be found in a volume in series IV.*]

[Enclosure No. 2.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sydney, 5th March, 1829.

Sir,

Inquiry re submission of rules for allowance.

Referring to my Letter, addressed to Your Excellency on the 5th August last, and accompanying the Copy of Rules and Regulations for the Government of the Gaol, prepared by me with the co-operation of the other Judges of the Supreme Court, and in compliance with the Suggestions of The Right Honble. The Secretary of State, I have to request that Your Excellency will do me the honor to inform me whether Your Excellency caused the same to be transmitted for His Majesty's allowance, in conformity with the order of His Majesty in Council.

I have, &c.,
FRANCIS FORBES, Chief Justice.

[Enclosure No. 3.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Government House, 7th March, 1829.

Sir,

I have had the honor to receive your Letter of the 5th inst. and find, on referring to the Papers in my Office, that the Copy of

* Note 187.

1829. 18 March.

the Rules and Regulations proposed by Your Honor for the Government of the Jail has not been forwarded to the Secretary of State. The subject has lain over inadvertently; But I have some recollection that it was my intention to communicate with Your Honor respecting it, the Rules appearing to be at variance with the Act of Council No. 5 of last Year, which had been previously passed, and which I supposed had escaped you at the moment. For instance the Rules, if adopted, would deprive the Sheriff of the powers given to him by the Act of removing Prisoners from the Jail to the Hulk, etc.

Rules at variance with act of council.

I therefore return the Document in question as you may wish to reconsider the subject.

I have, &c.,

RA. DARLING.

[Enclosure No. 4.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 16th March, 1829.

Opinion of judges *re* powers of sheriff under act of council.

I had the honor to receive Your Excellency's Letter, dated the 7th inst.; and I took the earliest opportunity of bringing the subject, it referred to, under the consideration of the Judges of the Supreme Court. At the desire of their Honors, I have to submit the following Remarks to Your Excellency, in answer to so much of Your Excellency's Communication as relates to the Opinion expressed thereby of the variance between the Rules and Regulations made by the Judges for the Government of the Sheriff in regard to the Public Gaols, and the Local Act of the Legislature No. 5 of last Year.

The Local Act, alluded to by Your Excellency, had not escaped the Consideration of the Judges in framing the Rules for the Government of the Gaols; but their Honors thought that the Local Ordinance, in giving the Sheriff a power of imprisoning or removing Persons already imprisoned from the Gaol of Sydney to the Hulk, must be construed in conformity with the Laws of England and the powers of the Judges, and held to be subject to such Rules and Regulations as should be laid down for the guidance of the Sheriff. To interpret the Ordinance with such a latitude as to allow the Sheriff to act upon his own discretion, independently of the Orders of the Judges, whose Ministerial Officer he is, would be to place in his hands a power equally unconstitutional in itself, and opposed to the express *Laws** of *England*, and the Authorities vested in the Judges of the Supreme Court by the *New South Wales Act*† and His Majesty's *Order in Council* issued in pursuance of the same, and in direct contravention of a previous and *specific Rule*‡ of the Supreme Court. Under this View of the Law, the Judges put such construction upon the Local ordinance of Your Excellency in Council, as it appeared to them would render it consistent with the Laws of England and the Powers vested in the Judges of the Supreme Court by the Act of Parliament and His Majesty's Order in Council, and laid down certain Rules for the guidance of the Sheriff in the exercise of his Ministerial Functions as an Officer of the Supreme Court. Upon a careful reconsideration of the subject, they feel impressed with the same view; and, as a considerable time has elapsed since

* *Marginal note.*—31 Ch. 2, Sect. 9; Hawk P.C., Vol. 3, Page 10, Sect. 5; Croke Car, 466.

† *Marginal note.*—4 Geo. 4, c. 96, Sect. 2-17, 19th October, 1824.

‡ *Marginal note.*—2nd May, 1827. See N. S. Wales Almanack, Page 61, 1829.

the Rules and Regulations were framed at the desire of The Right Honble. The Secretary of State and the suggestion of Your Excellency, and transmitted for the purpose of being submitted for the Allowance of His Majesty, they have to request that Your Excellency will cause them to be transmitted to England, and a notification to be made thereof in pursuance of the Order in Council. 1829. 18 March. Request for submission of rules.

I have, &c.,
FRANCIS FORBES.
Ch. Just. N. S. Wales.

[Enclosure No. 5.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, 19th March, 1829.

I have the honor to acknowledge the receipt of your Letter of the 16th on the subject of the Rules and Regulations made by their Honors the Judges of the Supreme Court for the Government of the Sheriff in regard to the Public Gaols, and shall transmit the same for the consideration of The Secretary of State, and give directions for their being Published in the Sydney Gazette.* Rules to be transmitted for approval.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 30, per ship Eliza; acknowledged by Sir George Murray, 3rd November, 1829.)

Sir, Government House, 19th March, 1829. 19 March.

I have the honor to forward for your consideration the accompanying Copy of a Memorial, which has been addressed to me by Mr. Macquoid the Sheriff and Mr. Thomson, the Clerk of the Council, requesting that they may be allowed an Allotment of Ground each in the Town or immediate Neighbourhood of Sydney for the purpose of erecting Houses for their residence respectively; as likewise that they may receive Grants of land the same as the other Civil Servants of the Government. Transmission of memorial.

I had the honor, Sir, of informing you in my Despatch No. 46, dated the 26th of March last year, that small allotments had been granted to several of the Civil Servants for the same purpose as now requested by Messrs. Macquoid and Thomson, and you are aware that those at the heads of Departments have also received Grants of Land with a view to cultivation. I have, &c.,

RA. DARLING.

[Enclosure.]

MEMORIAL OF T. MACQUOID AND E. D. THOMSON. Memorial of T. Macquoid and E. D. Thomson soliciting town allotment and land grant.

HIS EXCELLENCY Lieutenant General Ralph Darling, Governor in Chief, etc., etc., etc.

May it please Your Excellency.

We have the honor respectfully to bring to your Excellency's Notice the peculiar circumstances, in which we find ourselves placed, in Consequence of the refusal of our respective applications

* Note 187.

1829. 19 March.

Memorial of T. Macquoid and E. D. Thomson soliciting town allotment and land grant.

for small building allotments, as granted to other Civil Servants of the Crown.

The exorbitant rate of House Rent in Sydney, and the difficulty at all times experienced of procuring suitable residences, render it extremely desirable to obtain Situations, on which to build, which may be done on terms much more favorable to individuals than those on which, in consequence of the great demand, Houses can be rented.

When, in addition to these circumstances, the heavy expense of living generally are taken into account, we confidently hope that, on a reconsideration of our cases, Your Excelleney will be pleased to accord us the indulgence we now Solicit, more especially as the late numerous arrivals in the Colony have tended very considerably to encrease the difficulties complained of, while the great Scarcity of Money, at present so severely felt throughout the Country, render it improbable that House Rent will soon be reduced by Competition, arising from New Houses being built.

We have also the honor to request Your Excellency to extend to us the same indulgence, which likewise has been accorded to other Civil Officers, by giving the necessary directions in the proper quarter that we may be allowed Grants of Land in the interior; to which we understood, when in London, that there did not exist any objection on the part of the Right Honble. The Secretary of State, which therefore we considered rendered any application at home superfluous and unnecessary.

We consequently left England in the full confidence that we should be placed on the same footing in this respect, as other persons arriving in the Colony.

We trust that, if Your Excellency does not feel at liberty to grant us the boon, we have now the honor respectfully to solicit, Your Excellency will be pleased to make such a representation of our Cases to the Right Honble. Sir George Murray as may induce him to view them favorably. We have, &c.,

T. Macquoid.

Sydney, 25th Feby., 1829. E. Deas Thomson.

Governor Darling to Sir George Murray.

(Despatch No. 31, per ship Eliza; acknowledged by Sir George Murray, 14th November, 1829.)

Sir, Government House, 19th March, 1829.

Pension granted to D. Cubitt.

I have the honor to inform you that I have authorised the issue of a Pension of £40 per Annum to Daniel Cubitt, late Master of the Row Guard Service, until I receive your orders in this case.

The enclosed Extract from the Proceedings of the Executive Council, to whom I submitted Cubitt's case, will put you in possession of his situation; and I trust, Sir, you will concur in opinion that Cubitt, being far advanced in years and having for some time past been in the enjoyment of a Salary of £80, he is entitled to the Pension recommended by the Council.

I have, &c.,

Ra. Darling.

[Enclosure.]

1829.
19 March.

Pension for D. Cubitt recommended by executive council.

Extract of Minute No. 2 of the Proceedings of the Executive Council on the 18th February, 1829, when there were present:—His Excellency The Governor; His Honor The Chief Justice; The Venerable The Archdeacon; The Honorable The Colonial Secretary.

"His Excellency The Governor having brought under the consideration of the Council the application of Daniel Cubitt for a Pension; and it appearing that he had been 38 years in the Colony, 36 and a half of which free by absolute pardon,* granted to him by His Majesty, at the instance of Captain Rion of H.M. Ship Guardian, for his conduct during the passage, when the Ship was in a dismasted and sinking state; and Mr. Cubitt having held various situations in the service of Government, as Superintendent of Shoemakers and of Stock at Grose Farm, three years in the Police, five years a District and Chief Constable, nine years as Governor of the Gaol of Sydney, and eight years as Master of the Row Guard Service; the Council recommended that the said Daniel Cubitt should be allowed a Pension of Forty Pounds per annum, during his Life."

A true Extract:—E. Deas Thomson, Ck. of the Council.

Under Secretary Twiss to Governor Darling.

(Despatch per ship America.)

Sir, Downing Street, 20th March, 1829. 20 March.

Transmission of papers *re* claims of H. Dangar.

I am directed by Secretary Sir George Murray to transmit to you enclosed the copy of a letter from Mr. Dangar, late of the Surveyor General's Department, respecting the 1,300 acres of land of which he has been dispossessed in consequence of his misconduct. In order that you may be able the better to understand the nature of Mr. Dangar's claim, I transmit a copy of his previous communication and of Mr. Hay's reply, which, together with the letter which I have now addressed to him, will place you in possession of all the particulars which are necessary, although these papers form a very small part of the correspondence which has taken place with Mr. Dangar since his return to this Country.

Report requested *re* land titles.

The Secretary of State entertains no disposition, as you will perceive by the letter which has been last addressed to Mr. Dangar, to accede to any application for land which he may not be *legally* entitled to obtain; and Sir George Murray therefore desires that you will be good enough to report to him as to the nature of the Title, which "Reserves" of land, afterwards confirmed by the Governor in the manner stated by Mr. Dangar, usually bestow upon the parties in whose favor such reserves may have been made.

I am, &c.,

Horace Twiss.

* Note 188.

1829.
20 March.

[Enclosure No. 1.]

Mr. H. Dangar to Under Secretary Hay.

Sir. St. Neots, near Liskeard, 27th Feby., 1829.

In acknowledging the receipt of your letter of the 20th Inst., I beg to call to your notice that, in my letter of the 3d of this month, I did not beg restitution to be made of the 1,300 Acres of Land, but stated the circumstances under which I was now in the possession of it, and solicited that the same might be granted to me in the usual manner.

Request for confirmation of land grant.

I have also to call the attention of the Secretary of State to the fact that, although the 1,300 acres of Land was originally given to me under the description of holding called a "Reserve," a warrant was subsequently issued by the late Governor Sir Thos. Brisbane making that reserve *with others into Grants*. You doubtless will understand me when I say a Grant was made; the Governor's orders for such must necessarily pass long before any grant can be made complete by the delivery to the Grantee of the title deeds. Therefore the Governor's order for a grant is (for the present purposes of the Grantee) in every respect as secure to the Settler as if he had possession of the title deeds. Since by the contrary assumption the good fatih of His Majesty's Government is alledged to be broken.

Colonial practise *re* land grants.

The Copy of the document ordering the grant in question, I have already laid before the Government, being that numbered 10 on the file; but, in order to bring it immediately before you, I beg to transcribe it again:

Order for land grant to H. Dangar.

"To John Oxley, Esquire, Surveyor General, etc.

"You are hereby required and directed to mark and measure for the Individuals in the foregoing list, numbered from 1 to — inclusive, the number of acres of land specified against each name respectively, and to place them or their legal representatives in possession thereof, the same Lands being reserved for their use, with the intention of Grants being hereafter passed under the great Seal of the Colony in the usual manner, when they may cease to be in the employment of the crown, or when they may have complied with the terms on which the same are now reserved; And for so doing this shall be your sufficient warrant.

"Given under my Hand and Seal, at Government house, Sydney, this 22d day of November, one Thousand, eight Hundred and Twenty five.

"Thos. Brisbane.

"Witnessed by—
"Jno. Fennell.
"Wm. Lithgow."

My name for 1,300 acres is one of those attached to the foregoing document; and therefore the Land alluded to is not held as a reserve but as a Grant. This being the real state of the case, it of course will have its due weight with the Secretary of State, who, in deciding upon the point under the impression of the location being a reserve, came to that decision without having the whole case before him; And I cannot for a moment doubt but that, under the good faith of such grant, I shall be allowed to remain in the undisturbed possession of it.

1829. 20 March.

I trust but little more need be said upon this Subject. Where the Land was regularly granted unto me, which I was by the Crown Officer placed in possession of, And upon the faith of which I have expended considerable Capital. I would however put it to His Majesty's Government whether or not they will recognise in my case a two fold punishment? Shall I for an inadvertant (not corrupt) irregularity suffer the loss of both *my office and my property*?

Question of double punishment.

I cannot refrain herewith enclosing you a Copy of the late Surveyor General's Certificate (the original of which is already with you) upon my Conduct during the whole Period of my being in the public service. I implore the Right Honble. Secretary to have reference to this document in deciding upon the degree of improper Conduct with which I am charged. It is here obvious that the existence of which is a mere matter of opinion, it being the opinion of General Darling that my conduct in office was irregular, whereas the late Surveyor General in his certificate has certified to the contrary one. Can the Government therefore pay no respect to the evidence of that departed, old, and faithfull officer? (Who of the two I submit is likely to be the most capable of judging), and can the Government possibly fine me in such enormous penalties after my having, according to this respectable testimonial, faithfully served that Government for a period of nearly six years?

Certificate of service from J. Oxley.

Should the Government not judge favourably of this part of my case, I tremble for my then homeless situation, as, with the same reason, the same justice, might *General Darling recommend to Government* not to confirm the granting of 700 Acres of Land, which I have held under the order of the late General Macquarie since the year 1821, and for which the local Government have not yet prepared and handed me the title deeds. I am thus in this respect situated in the same manner as in regard to the 1,300 acres, and am equally liable to injury from the unaccountable decision or recommendation of General Darling; but I cannot question that, through my appeal to a just Government, my ruin will not be in that manner sanctioned.

Possibility of decision by R. Darling.

I do myself the honor to beg that you will lay the foregoing before Secretary of State, Sir George Murray.

I have, &c.,
Hy. Dangar.

[Sub-enclosure.]

Certificate by Surveyor-General Oxley.

I do Certify that Mr. Henry Danger served as Assistant Surveyor of Lands in my Department from the 21st May, 1821, to the 31st March, 1827, during which period his conduct was such as to merit my commendation. He performed his duty with zeal and in the most efficient and correct manner, and afforded no occasion (within my knowledge) in the execution of arduous and perplexing duties for censure or complaint against his Public conduct. His private conduct has been quite unexceptionable, and that he has served during the above period with ability and credit.

Certificate by J. Oxley re services of H. Dangar.

J. Oxley, Surveyor General.

Sydney, New South Wales, 4 August, 1827.

1829.
20 March.

[Enclosure No. 2.]

MR. H. DANGAR TO UNDER SECRETARY TWISS.

Sir, St. Neot's, near Liskeard, 3d Febry., 1829.

Request by H. Dangar for final decision by secretary of state.

I beg to acknowledge the receipt of Mr. Hay's letter of the 27th Ulto., and I feel bound in conclusion upon my case to solicit the further reply of His Majesty's Government on the following points:—

I informed you in my Letter of the 15th Novbr. last, as well as in former communications, that I held 1,300 Acres of Land under the order of Sir Thos. Brisbane of March, 1825, again repeated under his Warrant of the 22d Novr. of that year, and which I was placed in possession of by the Surveyor General in the early part of 1826 (see the Copy of Letter No. 9 in your possession), upon the faith of which order I have built and expended considerable capital in it; Notwithstanding, in the letter of Colonial Government to the Surveyor General (the Copy No. 1) in your possession, the granting of this Land to me is made subject to the decision of the Secretary of State, it cannot be held that I became improperly possessed of this land nor was such a thing ever assumed; I have been in possession of it now nearly three years, and therefore pray the decision of His Majesty's Government to transmit directions to the Colony that a Grant of the same may be made to me. Your letter to me of the 16th Octr. last went to inform me that I should experience every Justice from Government in this respect; but I trust you will perceive with me that it is *absolutely necessary*, before I leave this Country, that I should receive the distinct reply of the Secretary of State upon the before named question. I am much gratified at the good intention evinced in the latter part of your letter now before me, wherein you state, in respect to my complaint of being deprived of 1,700 out of 2,000 Acres of Land, purchased by me of the Government, that the directions will be given to the Governor not to deprive me of any land which I "may have so acquired provided," etc. That I really had possession of this Land (adjoining the 1,300 Acres before named) I refer His Majesty's Government to the Copy of the Surveyor General's letter No. 9 in your possession. That I have so paid the first instalment of £50 Sterling, I also refer you to that letter, as well as to the Document No. 7, which I have already laid before you. And that I have been deprived of this land. I beg to refer you to the Copy of the Colonial Secretary's letter No. 1 before alluded to. These surely must comprize *all the circumstances*, which can bear upon the case in regard to His Majesty's Government being enabled to decide with Justice upon it. I beg further to state upon this point that my Agent in the Colony has made tender of the residue Instalments in payment for this land, but provided the same land as was originally purchased was duly resigned to me. This was not acceded to on the ground that the case, being referred for the decision of the Secretary of State. The payments therefore are in consequence now suspended, pending such decision. The moment I am assured of my claim being indisputably allowed by His Majesty's Government, no time will be lost in completing such payments.

I therefore confidently lay the foregoing facts before the Rt. Honble. Secretary of State and respectfully solicit his unprovisioned decision upon them, such not being made subject, as in the latter part of your letter, to future explanations and opinions.

Being glad in the prospect of an early and just adjudication of my claims, as will enable me to return to my affairs in the Colony, which has already suffered considerably by my long absence. 1829. 20 March.

I have, &c.,
H. Dangar.

[Enclosure No. 3.]

Under Secretary Hay to Mr. H. Dangar.

Sir, Downing Street, 20th Feby., 1829.

I have received and laid before Secretary Sir G. Murray your letter of the 3d instant, stating the circumstances under which you were placed in possession of a Grant of 1,300 Acres of Land in New South Wales, and expressing the hope that the Secretary of State, in addition to the Instructions, which he has already given with respect to other lands, of which you had been dispossessed, would order restitution to be made of the 1,300 Acres above alluded to. Letter acknowledged.

In cases where the Governor does not feel at liberty to make a specific allotment of Land to an Individual, it appears to have been the practise to place him in possession of it under the title of a Reserve, subject to the approbation of the Government at home, and which allotment, therefore, does not become the Property of the occupier, until after the Secretary of State's confirmation shall have been notified to the local authorities. Between the time of your having been placed in occupation of the Tract of 1,300 Acres and the *confirmation* of it as a *Grant*, you were concerned in transactions, which rendered your removal from the Surveyor General's Department necessary, and induced General Darling to recommend that the Land in question should not be confirmed to you. Colonial practise *re* land grants.

The Secretary of State, after an attentive consideration of your case, decided as to the Propriety of withholding from you this Land, but at the same time directed, as you have been already informed, that, if you had expended any Capital upon that property upon the faith of any promise held out by the Colonial Government, a reasonable compensation should be made to you for any expense which you might have thus incurred. Sir G. Murray cannot, therefore, consent to any further modification of the Instructions, which have been issued to the Governor of N. S. Wales upon this subject. Decision by secretary of state *re* claims of H. Dangar.

I am, &c.,
R. W. Hay.

[Enclosure No. 4.]

Under Secretary Twiss to Mr. H. Dangar.

Sir, Downing Street, 20th March, 1829.

I am directed by Secretary Sir George Murray to acquaint you, in answer to your letter of the 27th Ultimo, that a Copy of it will be forwarded to General Darling; but as, after the unfavorable opinion entertained by the late Secretary of State in regard to your case, Sir George Murray would not feel himself at liberty to permit you to retain possession of any Land to which you may not be legally entitled, he cannot at present depart from the decision, which has been already communicated to you upon this subject. Letter to be sent to R. Darling. Decision unaltered.

I am, &c.,
H. Twiss.

1829. 20 March.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 32, per ship Eliza; acknowledged by Sir George Murray, 1st August, 1829.)

Sir, Government House, 20th March, 1829.

Death of W. Balcombe.

I have the painful duty to report the death of Mr. Balcombe, the Treasurer, which took place last night.

Mr. Balcombe had long been subject to severe Attacks of Gout, which occasionally confined him for several Weeks at a time to his Bed.

His Constitution at length became much impaired, and for the last three Years he had been a complete Invalid. About four Months since, he was attacked with Dysentery, a disease which his exhausted Constitution was unequal to resist, and he continued to decline gradually until last night, the period of his dissolution.

Financial distress of family.

I regret to add that Mr. Balcombe has left a large Family in very distressed Circumstances. His Widow and Daughter will suffer severely, as they are without any means of support; for, although Mr. Balcombe possessed some Land, he has died, I fear, much in debt, and his Land and Stock are not in a state at present to make any return.

There are also three Sons, young Men, who must provide for themselves, and, with industry and the assistance of their friends, can find little difficulty in doing so.

W. Dumaresq to act as treasurer.

I take the opportunity of mentioning that it is my intention to place Mr. William Dumaresq, late Captain of the Staff Corps, to act as Treasurer, until I am honored with your Commands on the subject. He has been employed for some time past as Director of Public Works; But, as Captain Wilson who has been appointed to the Situation, may be shortly expected out, I propose giving over the Charge of the Department to the Assistant or Superintendant of Works in Sydney, which will be attended with less Expence than making an additional Appointment.

I have, &c.,

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

21 March.

Dear Sir, Downing Street, 21st March, 1829.

Transmission of letter.

I beg to enclose to you, by direction of Sir George Murray, the copy of a letter from Captain Douglas, a Relation and friend of Captain Moriarty, who was wrecked off the Coast of South America on his passage out to New South Wales.

Although Sir George Murray commiserates extremely the misfortunes to which Captain Moriarty has been exposed, he does

* Note 3.

not see that he can afford any assistance to that Officer, except by recommending him, as his Predecessor has done, to your notice, which I am now directed by Sir George Murray to take this opportunity of doing. 1829. 21 March. Recommendation of W. Moriarty.

I am, &c.,
R. W. Hay.

[Enclosure.]

Mr. P. J. Douglas to Under Secretary Hay.

Sir, No. 2 Adelphi Terrace, 16th March, 1819.

From the sympathy which you were pleased to express, when I detailed the misfortunes of Captain William Moriarty, I am induced to give the Particulars of the voyage of misery which he endured in his passage from St. Jago to Rio. I cannot do better than copy it from his Letter: "We remained but one week after our wreck and considered ourselves very fortunate in being able at the end of that time to get away in an American Ship; we reach'd Rio at the expiration of six weeks after such a voyage of misery, as scarcely could be paralleled, all forced to lay upon the deck, many with nothing but a sail under them; and, after being out about a week, we received the awful visitation of Fever and Ague, without any Doctor, and after the first few days not a dose of any kind of Medicine; you may easily conceive the state we were reduced to; we lost seven of our companions, who might have been saved, could we have commanded the commonest necessaries; all of my family fortunately escaped the Malady, but the deaths and the misery, raging all around us, so affected my wife's mind as to have caused a premature confinement, and, though she had no other accoucheur than myself, the mercy of Providence conducted it to a happy issue": added to all this he has yet to learn that his implements of husbandry, etc., were not insured through the neglect of a friend, who had promised to do it for him. May I hope that his rank in the Navy, his being the son of the late Admiral Sylvenus Moriarty, and his misfortunes will induce you to interest yourself in his behalf with Sir George Murray and give him some appointment in the Colony of New South Wales; he has already been recommended by Lord Leveson Gower to the Governor by command of Mr. Huskisson. Request for appointment for W. Moriarty.

I have, &c.,
P. J. Douglas,
Captain, Royal Navy.

Governor Darling to Sir George Murray.

(Despatch No. 34, per ship Eliza.)

Sir, Government House, 21st March, 1829.

I beg leave to point out the inconvenience and indeed embarrassment, which is experienced by the Non Arrival of His Majesty's Warrant for the Appointment of a Legislative Council, under the Act of 4th Geo. 4th, Ch. 83. Delay in arrival of warrant for legislative council.

Apprehending that serious evils might arise in the event of the Suspension of the Jurisdiction of the Magistracy over the Convict Population, as authorised by the 19th Section of the Act 4th

1829. 21 March.

Temporary acts *re* jurisdiction of magistrates and courts of request.

Geo. 4th, Ch. 96, which would have taken place when that Act expired, it became necessary to resort to any practicable expedient for the remedy of this evil, and the Judges of the Supreme Court suggested the enactment of a local Law, previous to the New Act coming into operation, to take effect for a time to be limited, after the expiration of 4th Geo. 4th, Ch. 96, similar in its provisions to those of the 19th Section of that Statute.

An Act to this effect was consequently passed on the 19th day of February last, and proceedings against the Prisoners of the Crown have been continued as heretofore. Another local Law was also passed under the Old Act to continue the Courts of Requests. These will of course be revoked by other Acts, when the Warrant arrives and the Council is formed Under the New Act.

Legality of acts.

I am most anxious for the arrival of the Warrant, as opinions appear to be entertained that the legality of the two local Acts above alluded to admits of dispute, and as no legislative proceedings* can take place under present circumstances.

I have, &c.,
RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.†

24 March.

Dear Sir, Downing Street, 24 March, 1829.

Recommendation of A. C. Luthman.

This letter will be presented to you by Mr. A. C. Luthman, who is about to proceed as a Settler to New South Wales; and Sir George Murray is induced, at the particular request of Sir Robert Wilson, to recommend this Gentleman to your protection and good offices.

I am, &c.,
R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch marked "Separate," per ship Australia.)

Sir, Government House, 24th March, 1829.

Impeachment of R. Darling by W. C. Wentworth.

Understanding that Mr. Wentworth has transmitted to England Charges‡ against me, or an "Impeachment" as it is termed, of my Conduct in the case of Sudds and Thompson, I think it proper to apprise you that no communication has been made to me of the circumstance, and that I am utterly ignorant of what has been alleged. When I am informed, I have no doubt I shall be enabled to give any explanations, which may be necessary, in addition to the Statements I had the honor to forward, and which I perceive have been laid before Parliament, when the matter alluded to first took place.

* Note 189. † Note 3. ‡ Note 190.

1829. 24 March.

I trust, Sir, that the manner, in which the circumstances of this case have already been reported by me for the information of His Majesty's Government, will be considered satisfactory and sufficient, as I was led to understand by my Lord Goderich's Despatch, dated the 11th June, 1827, No. 25; and that it will be seen, as I was not informed of Sudd's illness until after his death, that the supposition of my being responsible for that Event is as monstrous as it is extravagant, and could only have been conceived by a Man of Mr. Wentworth's mind. I was informed not long since that Mr. Wentworth had prepared an Impeachment, Copies of which were to be sent Home for circulation amongst the Members of Parliament; the Person, who mentioned the circumstance, had been permitted privately to peruse it, and he declared that it was filled with the grossest falsehoods. I was then indifferent about the matter, it being mentioned, as I now suspect, with an intention of preventing my writing Home on the subject at the time that it was to be communicated to me previous to it's being sent to England. It has now I understand been forwarded secretly, and Mr. Wentworth will perhaps, bye and bye, when he supposes any communication of mine would be too late to have effect, furnish me with a Copy of the Document in question. Whenever he does, I shall lose no time in transmitting such Explanations as may be necessary to the Case.

Reports received *re* impeachment.

My object, Sir, in now addressing you is to prevent any impression on your mind or the Members of His Majesty's Government that the proceeding of Mr. Wentworth has the countenance much less the sanction of this Community. I cannot offer a better proof that it has not, than the secret manner in which this matter has been carried on. It was privately mentioned for my information lately, but I attached no importance to it, that Mr. Wentworth had had a Confidential Clerk with him in the Country copying the Impeachment, so that the particulars might not transpire; and I then heard, as stated above, that this Document had been communicated privately to a Person, who gave the information mentioned.

Secrecy observed by W. C. Wentworth.

That Mr. Wentworth is not popular or respected even by the Emancipists, his more immediate friends, it will be sufficient to refer you to my Despatch to Mr. Secretary Huskisson, dated the 15th February, 1828, marked "Separate," by which it will be seen that the Company, assembled at the Anniversary Dinner in January, 1828, refused to drink his health, to which I might add, when he exerted himself last January to bring his friends together on the like occasion, that the Company instead of being very numerous as formerly, consisted of only *thirteen* persons,

Unpopularity of W. C. Wentworth.

1829. 24 March. three of whom were Masters of Ships, himself, Wardell, Mackaness, Hall the Editor of the Monitor, and six other Individuals of the same Class, Radicals or Emancipists.

State of public opinion. I have, in some of my former Letters, been desirous of pointing out that neither Wentworth nor Wardell are associated with, and that, although the Opposition Papers are read, as every inflammatory production will be, that these are no more the voice of the Public than the Individuals named above are in any respect connected with the respectable part of the Community.

Origin of impeachment. It appears to me necessary, and I hope, Sir, you will therefore excuse it, to repeat these facts at the present moment, in order that you may view the "Impeachment" as the Act of a Factious Party, and a very small one too, consisting only of three or four disreputable and discontented Radical Lawyers, and not as the expression of the Public Sentiment, any more than the foul abuse which is poured forth Weekly in the "Monitor" and "Australian," the Editors of which Papers are anxious to create an impression at Home that the People here are groaning under the Tyranny and Oppression, which is exercised over them, when I solemnly believe that the Inhabitants of no Country are more happy or tranquil, making allowance for the sufferings they have been exposed to by the late unfavorable Seasons.

I have, &c.,
RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

25 March. My dear Sir, Downing Street, 25th March, 1829.

Recommendation of Betts. In consequence of the enclosed letter, which I have received from Lord Bathurst, I beg to recommend the Bearer, Mr. Betts, to your good Offices; and I have Sir George Murray's authority to state that he would feel glad if you should have an opportunity of employing Mr. Betts in some subordinate situation in the Colony.

I am, &c.,
R. W. HAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Australia.)

Dear Sir, Sydney, 25th March, 1829.

Press report on trial. I am sorry it did not occur to me sooner to send you the enclosed Newspaper, which contains the Report of a Trial† in which Doctor Douglas was Plaintiff.

You will perceive, on reference to Captain Harrison's Evidence in the 3d Column, the estimation in which the Doctor was held

* Note 3. † Note 191.

by the people here at the time of his first departure. As to his second, it is very well understood that he was glad enough to get away. Busy and intriguing, he will prove at home an admirable assistant to the Party here, and his friend Wentworth has just furnished him with occupation, as you will see by my Despatches, or may have heard of before. I remain, &c.,

1829. 25 March.

Popular opinion *re* H. G. Douglass.

RA. DARLING.

P.S.—You will oblige me by letting Sir George Murray see the enclosed Paper.

[Enclosure.]

[*This was a copy of the Sydney Gazette, dated 15th September, 1828.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 91, per ship America.)

Sir, Downing Street, 26th March, 1829.

26 March.

With reference to my despatch No. 57 of the 26th of November last, I have the honor to acquaint you that I have appointed Mr. Edward Hallen to the situation of Draftsman in the Department of the Surveyor General at New South Wales. Mr. Hallen will accordingly proceed to the Colony by the first opportunity. I am, &c.,

E. Hallan appointed draftsman.

G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship America.)

Sir, Downing Street, 4th April, 1829.

4 April.

I am directed to acquaint you that Mr. George Hayward, whose appointment as an Assistant Surveyor at New South Wales was notified by Sir George Murray's despatch of the 24th of December last, has declined that appointment, and that Sir George Murray will take an early opportunity of filling up this Vacancy. I am, &c.,

Appointment declined by G. Hayward.

HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 35, per ship Australia.)

Sir, Government House, 6th April, 1829.

6 April.

I have the honor to transmit to you copy of a letter, which has been received from the Collector and Comptroller of the Customs, pointing out the necessity of an augmentation to the Establishment of that Department as follows, "Vizt.":—

Increase of staff in customs department.

3 Landing Waiters, Searchers and Gaugers; 2 Clerks; 1 Locker for the Bonded Stores, which I have approved of until the

1829. 6 April.

Tide-waiters appointed.

Authority of the Commissioners of Customs can be obtained, as likewise of the employment of four Tide Waiters at the following Salaries, "Vizt.":—

Mr. Farrell, £150 per Annum; Mr. Pawsey, £150 per Annum; Mr. Williams, £100 do; Mr. Goodsir, £100 do.

I have, &c.,
Ra. Darling.

[Enclosure.]

Customs Officers to Colonial Secretary Macleay.

Sir, Custom House, Sydney, 26th March, 1829.

Establishment proposed in customs department.

With reference to your letter of the 26th of January last, addressed to F. N. Rossi, Esq., late Acting Collector, communicating by direction of His Excellency the Governor the appointments made by the Lords Commrs. of His Majesty's Treasury for the collection of the Revenue of Customs at this Port, also conveying His Excellency's desire that the Establishment preceding our arrival should be retained with the exception of the Acting Collector, until the end of the present Quarter, in order to prevent any embarrasment which the Public might experience by a sudden and immediate change in the Establishment.

We have the honor to state, for His Excellency's information, that, having carefully inspected and revised the various Duties of the Department with reference to the Instructions received from the Honorable the Commissioners of His Majesty's Customs, and informed ourselves (as far as we have had an opportunity) on the trade of the Colony, and the several Duties at present connected with the Department by Colonial Regulation, and having maturely considered how the same could be efficiently as well as economically provided for; We are of opinion that, in addition to the Establishment already approved of by the Lords of the Treasury, it will be necessary, owing to the encreasing Trade of the Port, that the following Officers and Clerks should be attached to the Department, vizt.:—

3 Officers to perform the Duties of Landing Waiter, Searcher and Guager.

2 Clerks to assist in the Long Room and the general indoor business.

1 Locker to attend the Receipt and delivery of Goods admitted to be bonded.

And would therefore recommend to His Excellency's consideration the following Gentlemen (already attached to the Department with the exception of Mr. Warne) to perform the duties of the Offices set against their respective names, until directions shall have been received from the Commissioners of Customs;

Mr. William Hutchinson, as Wharfinger occasionally to assist at Landing Goods; Mr. Fredk. Garling, Landg. Waiter and Guager; Mr. Chas. F. Warne, do. do; Mr. Edward Turner, Locker; Mr. James O. Phelps, Mr. Edward Byers, In door and Long Room business.

We would also beg leave to submit that the following persons should be employed as Acting Tide-Waiters at a Salary affixed to

1829.
6 April.

their names respectively, being the Amount approved by the Lords of the Treasury for the Established Officers of that class at this Port, vizt.:—

Establishment proposed in customs department.

Mr. Chas. Farrell, £150; Mr. James Pawsey, £150; Mr. Richard Williams, £100; Mr. David Goodsir, £100.

In suggesting this arrangement for carrying into effect the various duties at present connected with the Customs, and in submitting the foregoing names, We beg to state that We have duly considered the efficiency of the parties, whom We have ventured to propose; and, with a view to ensure this essential object, We have handed the several persons in question Copies of the Instructions approved by the Honorable Board of Customs for the guidance of their Officers in the Colonies, and, having examined them with reference thereto, consider them competent to the duties required. Should His Excellency be pleased to approve thereof, We would submit that the foregoing Establishment should take effect from the 5th of April next, and the parties named be required to take the Oath of Office, and enter into the usual securities required of Established Officers of their respective Class, and the Collector may be allowed credit in his accounts for payment of their Salaries, at a rate not exceeding the established allowance to Officers of the same class, with the exception of Mr. Turner, the proposed Locker, the responsibility of whose situation especially in this Colony renders it of the utmost importance that this Office should be filled by a Person not only qualified by ability but character. We would therefore propose to continue Mr. Turner in this situation at the same amount of Salary, viz., *£200* per annum, as he has received under the late Establishment, until We shall have received the directions of the Commissioners of His Majesty's Customs on the Subject.

Customs establishment at Newcastle.

We are yet unable to offer any opinion as to the efficiency either of the Officer or Establishment at Newcastle; but, so soon as the present press of business shall have been disposed of, the Collector purposes visiting this port, when We shall take care to communicate the result of his inspection for His Excellency's information; but, in the mean time, would submit that Mr. Fisk, the Officer at present employed, be continued at the allowance he has heretofore received under the Governor's sanction. We have, &c.,

M. C. Cotton, Collr.
Burman Langa, Contr.

Under Secretary Twiss to Governor Darling.*

Sir, Downing Street, 7th April, 1829.

7 April.

Approval of clerk for superintendent of convicts.

I have had the honor to receive and lay before the Secretary of State your letter of the 1st September last, addressed to Mr. Hay, reporting that an additional free Clerk had been appointed to the Office of the Superintendant of Convicts in the room of a Convict Clerk dismissed for improper conduct.

The appointment, which you have made, appears, under the circumstances of the case, to have been unavoidable; and I have therefore received the directions of Secretary Sir George Murray to authorise the retention of the services of the person, whom the Superintendant has recommended to you for employment, if,

* Note 3.

1829. 7 April. during the short time he has been serving in the Superintendant's Office, he should have discharged, to the satisfaction of that Officer, the duties which were required of him.

I am, &c.,
HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 36, per ship Australia; acknowledged by Sir George Murray, 1st September, 1829.)

Sir, Government House, 7th April, 1829.

Despatch acknowledged. Having communicated with Mr. Maddox of the Commissariat Department on the subject of Mr. Secretary Huskisson's Despatch of the 12th of May, 1828, No. 25, I beg to observe that his notions do not appear sufficiently defined to enable me to give any precise information on the subject.

Erroneous deductions by G. T. Maddox. His original communication to the Treasury was not founded on any correct data, and the deductions are consequently speculative and erroneous.

I forebear troubling you with his reply to my Queries, as it would only burthen this communication without furnishing you with any useful information. I have, &c.,
RA. DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Sovereign.)

8 April. Sir, Downing Street, 8th April, 1829.

Approval of salary for J. Nicholson. I have received and laid before Secretary Sir George Murray your letter under date of the 10th July last, respecting the Salary at which you had, in compliance with the tenor of Mr. Hay's letter of the 8th November, 1826, assigned to Mr. Nicholson as Harbour Master at New South Wales; and I am directed to acquaint you, in reply, that the arrangement, which you have adopted with respect to the emoluments of that Officer, by which a Salary at the rate of £500 per annum has been secured to him in lieu of all fees and allowances, as well as House Rent, appears to meet the views of the Secretary of State at the time those Instructions were communicated to you. I am, &c.,
HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 37, per ship Australia.)

Sir, Government House, 8th April, 1829.

Letters transmitted. In reference to my Despatch No. 145 of last year, I do myself the honor of transmitting for your information Copies of two Letters, one from Dr. Wilson, Surgeon Superintendent of the

Convict Ship "Governor Ready," the other from Mr. Cameron Surgeon of the Convict Ship "Ferguson," by which it appears that it is the practice, as well in Ireland as in England, to refuse furnishing the Surgeons with Lists containing the particular cases of the Prisoners embarked in the Convict Ships. 1829. 8 April. Refusal of details *re* convicts.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

SURGEON WILSON TO COLONIAL SECRETARY MACLEAY.

Governor Ready Ct. Ship,
Sydney Cove, 20th January, 1829.

Sir,

I have the honor to acknowledge the receipt of your Letter of the 17th inst. requesting me to transmit to you a List containing information, respecting the Caracters and Connexions of the Prisoners brought out under my Charge. Inability to obtain detailed list of convicts by T. B. Wilson;

In reply, I beg to state that, when the Prisoners embarked in this Ship, I requested Mr. Beatty, the Overseer of the Hulk "Surprise," to give me a List of the Names, Characters, and other particulars of the Prisoners committed to my charge, that it might be delivered, according to my Instructions, to the proper Authority in New South Wales.

The Overseer informed me that Dr. Trevor would not permit any such List to be given, all the particulars being enclosed to His Excellency the Governor. In consequence, I have no List to transmit to you; this circumstance, I stated in my Journal on the 18th September, 1828.

Strict attention shall be paid to your directions relative to the disposal of Money belonging to the Prisoners.

I have, &c.,
T. B. WILSON, M.D.,
Surgeon, R.N., Surgeon Supt.

[Enclosure No. 2.]

SURGEON CAMERON TO COLONIAL SECRETARY MACLEAY.

Convict Ship "Fergussan," 30th March, 1829.

Sir,

In answer to your Letter of the 28th inst. requesting me to transmit the Lists I may have in my possession, containing such information as could be procured, respecting the character and connexions of the Prisoners under my Charge. and by C. Cameron.

I beg to inform you that, when the Prisoners came on board at Dunleary, I applied to the Principal Superintendent of Convicts in Ireland, Dr. Trevor, for the Lists required, and also the Overseer of the "Essex" Hulk, shewing them my orders from the Navy Board to have the List in my possession for delivery to His Excellency the Governor of New South Wales.

Mr. Lamb, the Overseer of the Hulk, told me that he could not give me one without the permission of Doctor Trevor; and Dr. Trevor refused to give me the Lists, stating his reason for acting in this manner to be "that I might become prejudiced against a Man by knowing that his Crime was bad"; and that I might in consequence ill treat him, or allow others to do so; I remonstrated with him, as far as I considered my Situation would permit me, but

1829. 8 April. without avail, and I was obliged to rest satisfied by stating that I would be under the necessity of representing the circumstance.

I have, &c.,

CHARLES CAMERON.
Surgeon Superintendent.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Sovereign.)

9 April. Sir, Downing Street, 9th April, 1829.

Approval of payment to A. Beauvais. I have the honor to acknowledge the receipt of your letter, dated the 29th of July, 1827, respecting Mr. Alexander Beauvais; and I have to convey to you the sanction of the Secretary of State for the payment, amounting to £100, which you had authorised to be made to him, as a remuneration for his Services at Emu Plains, where he appears to have had charge of the Government Agricultural Establishment for the space of six months.

I am, &c.,
R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 38, per ship Australia; acknowledged by Sir George Murray, 17th October, 1829.)

Sir, Government House, 9th April, 1829.

Recommendation of J. T. Harrington for increase of salary. I am induced to bring under your notice the case of Mr. Harrington, the Assistant in the Office of the Colonial Secretary, in the hope that you will be pleased to authorise an addition to his Salary. This Gentleman has been employed nearly 3 years on a Salary of *£450*, and has discharged the duties of a most laborious appointment with a degree of assiduity and zeal, which give him a claim to my warmest commendation.

Mr. Harrington is a person of no inconsiderable acquirements, and his services are consequently important in the Office he at present fills. He was educated I think for the legal profession, his father having been first a Judge in Bengal and subsequently a Member of Council in that Presidency.

It is not therefore on the plea of want that I venture to appeal to you on the part of Mr. Harrington, but rather that the remuneration, which he receives, may shew that his Services are held in due estimation.

When my Lord Bathurst was pleased to approve of his employment, his Lordship intimated there was some objection to the appointment of Assistant Secretary. I felt, however, that the Government would have been deprived of Mr. Harrington's Services, had this objection been communicated to him, as he made it a condition, when he entered the Office, that he should stand next to the Colonial Secretary.

Having served so long on a very moderate Salary, I only discharge the duty, which I owe to the Government, in recommending that he may be allowed £600 per Annum from the commencement of the present year. 1829, 9 April.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 39, per ship Australia.)

Sir, Government House, 9th April, 1829.

I do myself the honor to acquaint you that two Russian Ships have lately arrived here, the Krotky, commanded by Captain Hagameister, carrying 18 Guns and bearing His Imperial Majesty's Flag, and the Helena belonging to the Russian American Company, commanded by a Lieutenant of the Russian Naval Service. Visit of Russian ships to Port Jackson.

Both these Ships were at Portsmouth in the month of October last, and they propose, as I understand, pursuing their Voyage, the Krotky for Kamschatka, and the Helena for the Russian Settlement on the N.W. Coast of North America in a short time.

I have seen nothing in their proceedings to excite suspicion that they have any view to colonization* in New Holland. They have conducted themselves with much propriety, and I have shewn them every attention in my power. I have, &c.,
RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch marked "Private," per ship Sovereign.)

My dear Sir, Downing Street, 10th April, 1829. 10 April.

In your letter of the 29th July, 1827, you stated that Mr. Alexander Beauvais, whom I had recommended to your protection, had been appointed to one of the Agricultural Establishments; but that, soon after he was thus comfortably provided for, ill-health obliged him to relinquish his situation. Since you were good enough to communicate this information, Mr. Beauvais' friends have heard nothing of him. I shall therefore be much obliged to you if you will inform me whether he has quitted New South Wales and proceeded, as appears to have been his intentions, to Van Diemen's Land. Report requested *re* A. Beauvais.

I remain, &c.,
R. W. HAY.

P.S.—I accompany this by an official letter, authorising the payment which you had made to Mr. Beauvais for the six months during which the public had the benefit of his services. It was only by accident that I discovered that this letter had not been before answered. R.W.H. Approval of payment to A. Beauvais.

* Note 192.

1829.
10 April.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 40, per ship Australia.)

Sir, Government House, 10th April, 1829.

Recommendation of P. Logan for increase of salary.

I feel myself called on to recommend to your favorable consideration the situation of Captain Logan, the Commandant of the Penal Settlement at Moreton Bay. This Officer has held the appointment for a period of three years, during which time the Number of Prisoners under his superintendence has encreased from 200 to nearly 1,000, which has added proportionately to his duties and responsibility.

In recommending, Sir, that Captain Logan's Salary may be encreased from 10s. per diem, which is at the rate of £182 10s. a year, to £300 per annum from the commencement of the present year, I beg to mention that, from his knowledge and habits, he appears qualified in no ordinary degree for the Situation of Commandant of a Penal Settlement.

Explorations by P. Logan.

Independent of the immediate duties of his Station, which he has performed in a very satisfactory manner, he has explored the Country for some distance from the Settlement and has discovered two Rivers in the neighbourhood of the Brisbane, the principal of which I have called the "Logan," in compliment to his exertions.

I venture to think you will not consider the Salary proposed for Captain Logan too high, when it is recollected that the Commandant at Norfolk Island is allowed a Salary of £600 per Annum, where the Number of Prisoners is little more than two hundred.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 92, per ship Sovereign.)

11 April.

Sir, Downing Street, 11th April, 1829.

Despatch acknowledged.

I have to acknowledge the receipt of your despatch of the 30th of July last, reporting that you had authorised, with the advice of the Executive Council, the issue of a Pension of £50 a year to Mr. Thomas Dunn, the late Chief Constable at Sydney.

Disapproval of pensions for long service.

If it should appear that Mr. Dunn has no other means of subsistence than that which this pension will afford to him, I am not disposed to withdraw the allowance which you have directed to be issued to him; but His Majesty's Government have felt it their duty to discourage as much as possible the system, which has grown up of late years, of granting Pensions to Individuals holding Colonial appointments after certain periods of service;

and, acting upon this principle. I cannot allow the continuance of this charge upon the Public, unless the situation of the party should be so totally destitute as to render the case one of peculiar distress, and no other way can be pointed out by which he may be able to support himself and his family. I am, &c.,

1829. 11 April.

Qualified approval of pension to T. Durt.

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 41, per ship Australia; acknowledged by Sir George Murray, 11th October, 1829.)

Sir, Government House, 11th April, 1829.

It being of importance that the Settlement at Norfolk Island should, in consequence of its distance and the extreme difficulty of landing, there being no Harbour, be rendered as independent of external supplies as possible, so as to avoid the risk and inconvenience of forwarding large quantities of Stores from time to time, I have been induced to appoint Mr. Alexander McLeod, Superintendent of Agriculture at that Settlement, with a Salary of £200 per Annum.

Appointment of superintendent of agriculture at Norfolk island.

A Mr. Bennett has lately held this appointment, and received £100 a year; but, being unfit for the situation, I have been under the necessity of removing him, trusting from Mr. McLeod's Knowledge and experience, having had charge of a similar establishment at Bathurst for some time, that he will turn the productive soil of Norfolk Island to account, and in the course of a short time relieve this Government from the necessity of supplying that Settlement with Grain.

I am further induced to look forward to receiving Hay from that place, which it is stated may be raised in abundance there. The price of this article, during the scarcity which has existed here, has been as high as £18 and £20 per Ton.

Proposed import of hay from Norfolk island.

In requesting your Authority for charging Mr. McLeod's Salary at £200, I beg to observe that, when employed at Bathurst, he was allowed £250 per annum. I mention this to shew that every attention has been paid in securing his Services on the most economical terms. I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 93, per ship Sovereign.)

Sir, Downing Street, 12th April, 1829.

12 April.

I have to acknowledge the receipt of your despatch, dated the 31st of July last, enclosing the copy of a letter from the

Despatch acknowledged.

1829. 12 April.

Approval of increase in establishment of auditor.

Auditor, representing the inadequacy of the Establishment of his Office to the duties which it is required to perform, and of the insufficiency of the Salaries of the persons who are at present employed in it, in consequence of which representation, you appear to have authorised the employment of an additional Clerk at a Salary of £150 per annum, the increase of the Salary of the second Clerk from £150 to £200, and of the Salaries of the two Juniors from £130 to £150 per annum each.

The very full explanations, which Mr. Lithgow has given in his letter, in respect to his own duties and that of the persons belonging to his Office, may furnish sufficient grounds for the increase of Expenditure which the arrangements, suggested by him, will occasion; but you will acquaint that Officer and the Clerks of his Department that these augmentations of Income and of assistance are acceded to, only, on the express condition that, if the Establishment shall not be found fully adequate to keep down the business of the Department at the present rate of official attendance, which appears to be for only seven hours a day, they will be required to afford, without further increase of Salary, such additional attendance as that business shall require, not exceeding a daily average of nine hours diligently and efficiently employed.

Office hours to be increased if necessary.

I am, &c.,

G. Murray.

Sir George Murray to Governor Darling.

(Despatch marked "Circular No. 6." per ship Norfolk; acknowledged by Governor Darling, 16th December, 1829.)

Sir, Downing Street, 12th April, 1829.

Securities from officers in charge of public money.

It being deemed advisable that all Officers in the Colonies, who are, or who hereafter, may be entrusted with the Public Money, shall either there or in this Country give adequate Security for its safe custody and due application, I am to desire that you will acquaint me in what cases, and to what extent, any surety may have been already entered into by Officers charged with the Collection or application of the Revenues in the Colony under your Government, in what instances this precaution has been omitted, and what has been or is likely to be the largest amount of balance in each Officer's hands, in order that some general Regulations may be established for proportioning the amount of the Security to the trust reposed in the Officer.

I have, &c.,

G. Murray.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 94, per ship Sovereign.)

1829. 13 April.

Sir, Downing Street, 13th April, 1829.

I have received your despatch of the 4th of August last, enclosing an application from Mr. Hely, the principal Superintendant of Convicts, for a separate remuneration for the duty which he has to perform in carrying into effect the regulations under which Tickets of leave are granted to the Prisoners of the Crown, and reporting that you had, in consequence of the additional trouble which thus devolved upon him, consented to his drawing an extra allowance at the rate of £100 a year "as Chairman of the Ticket of Leave Committee." Despatch acknowledged.

I regret to acquaint you that I cannot authorise the continuance to that gentleman of the additional allowance which you have permitted him to draw for performing the particular service in question. The Salary of the Superintendant of Convicts appears very lately to have been augmented from £352 to £500 per annum; and, although I am aware that, in your enumeration of the grounds on which you were induced to recommend that measure, the particular branch of duty, for which Mr. Hely claims additional Pay, was not mentioned, yet I must object to the principle, which the admission of this claim would establish, that an Officer is to be remunerated separately for every extra duty which may be assigned to the Department of which he has the charge; and I am the more especially called upon to withhold my assent in this instance, as not only have Mr. Hely's emoluments been increased since the Regulations respecting the Tickets of Leave were promulgated, but considerable extra assistance has been afforded to him for carrying on the business for which he is responsible. Refusal of allowance to F. A. Hely for control of tickets of leave.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 95, per ship Sovereign.)

Sir, Downing Street, 14th April, 1829. 14 April.

I have received your despatch of the 5th August, accompanied by a Memorial from a person named Michael Connor, complaining that he has not been able to obtain a Grant of land notwithstanding he is possessed, as he states, of considerable property which he took out with him to the Colony. Application by M. Connor for land grant.

From the report of the Land Board on this person's case, which accompanies your despatch, there is certainly every reason to suppose that the greater part of the property, of which this person has transmitted a Schedule, does not belong to him personally.

1829. 14 April.

Instructions *re* application.

As however it appears from Dr. Redfern's statement that seventy-two Cows were sold by him for the personal account, as he conceives, of Michael Connor, and as I should regret that any person should by possibility be disappointed, after having proceeded to the Colony, in obtaining a grant of land according to their expectations, you will cause further enquiries to be made as to the means possessed by this person with a view to his obtaining a small grant, should he be entitled to it, of course withholding the indulgence from him, if you should still be of opinion that he has attempted to impose a false statement of his Capital upon the Colonial Government.

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 96, per ship Sovereign.)

15 April.

Approval of expenditure on visit to Moreton bay.

Sir, Downing Street, 15th April, 1829.

I have received your despatch of the 9th of August last, in reply to one which has been addressed to you by Mr. Secretary Huskisson on the subject of the expense of your entertainment on board H.M.S. Rainbow during your passage in that Ship to Moreton Bay in the year 1827, and I have now to acquaint you that the explanations, which you have afforded as to the circumstances under which that expense was incurred, are satisfactory. It was only the absence of those explanations which caused a hesitation in the allowance of the expense; and I must observe, therefore, that you will not be warranted to consider, in the language of your Despatch, "that little importance is attached to the inspection of the distant Settlements."

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.

(Despatch No. 97, per ship Sovereign.)

16 April.

Despatch acknowledged.

Sir, Downing Street, 16th April, 1829.

I have received your despatch of the 12th of August last, communicating the latest accounts received from Melville Island and Fort Wellington in Raffles Bay by the arrival at Sydney of the late Commandants of both those Settlements.

Instructions to abandon settlements in north Australia.

The despatches,* which were forwarded to you previously to the receipt of your present communication, will have acquainted you with the determination of His Majesty's Government to abandon altogether the Settlements, which had been formed at both those places; upon which subject I have now nothing further to observe

* Note 193.

than that the intelligence, which you have subsequently transmitted, only tends to confirm the propriety of the instructions which have been already given in that respect. I am, &c.,

1829. 16 April.

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 98, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

I have had the honor to receive your despatch dated the 13th August last, acknowledging the receipt of one which had been addressed to you by Mr. Secretary Huskisson, respecting the work in progress for introducing Water into the Town of Sydney.

Despatch acknowledged.

I am not aware that any observations are called for from me in answer to this despatch further than to express my satisfaction at the termination of the evils, to which the Inhabitants have been exposed by the severe and long drought which has afflicted the Colony. The judicious measures, which you adopted, appear to have mitigated in a great measure the mischiefs which, notwithstanding your precautions, have resulted to the Settlers. Under the circumstances of the case, I approve of your continuing the undertaking* which has been commenced for supplying the Town of Sydney with water in the manner which you propose, until you are enabled to adopt the arrangement suggested by my Predecessor for relieving the Colonial Government from the charge.

Approval of water supply for Sydney.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 99, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

I have received your despatch dated the 15th August, on the subject of an allowance claimed by Colonel Morrisset in lieu of Forage for a second Horse, and which you report that you have felt it necessary to grant, as he would have been entitled to two Horses as Commandant of Norfolk Island.

Disapproval of forage allowance for J. T. Morisset.

When Colonel Morrisset's emoluments were fixed, £600 a year was the sum agreed upon without reference to any other allowance whatever; but whether or not such indulgence would have been granted to him in the capacity of Commandant, had he proceeded to fill that Station, there appears no ground for his receiving such an allowance in the situation which he now holds; and I have therefore to desire that you will discontinue the issue of the same to him from the date at which you may receive this despatch.

I am, &c.,

G. MURRAY.

 * Note 194.

1829.
16 April.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 100, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

Introduction of whooping-cough.

I have the honor to acknowledge the receipt of your despatch of the 28th of August last, reporting the introduction of the Hooping Cough* into the Colony by means of the Ship "Morley," and expressing your apprehension that the Small Pox may also make its appearance, the Crew of a Convict Ship the "Bussorah Merchant" having been affected with the disease on the passage out.

Censure of captains and surgeons.

The conduct of the Captains and Surgeons superintendant of those Ships appears to have been extremely reprehensible, as they ought to have taken the earliest opportunity, after their arrival at Sydney (particularly before any communication had taken place between the Crews and the people on shore), of reporting to you the cases of disease which had manifested itself on board, instead of leaving it to the local Authorities to make the discovery.

I communicated the contents of your despatch to the Commissioners of the Navy in order that the gratuities usually granted by that Board might be withheld from the Officers guilty of such neglect; but I am sorry to find that, in the case of the Master and Surgeon of the "Morley," these gratuities have been already paid, and that it has therefore been only possible to withhold them from the Master and Surgeon of the "Bussorah Merchant."

Gratuities withheld.

Approval of precautions adopted.

The precautions, which you adopted, as soon as you were apprized of the circumstances, for preventing the dissemination of the above disorders, were highly judicious; and, although your exertions unfortunately came too late to prevent the Hooping Cough from making some progress in the Colony, I trust you will have succeeded in preserving the Inhabitants from the serious consequences which would attend the appearance of the other dreadful disorder amongst them. I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 101, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

Approval of items of expenditure.

I have to signify to you His Majesty's approbation of the expenditure, reported in your despatch of the 1st September last, which you had found it necessary to incur in the conveyance of 160 Prisoners to Moreton Bay, as also of the charge for repairing

* Note 97.

and refitting the Colonial Vessel "Mermaid," the former amounting to £210, the latter according to the estimate furnished by the Master Attendant to the sum of £310. 1829. 16 April.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 102, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

I have received your dispatch of the 3d September last, submitting a letter and enclosures addressed to you by Mr. Lithgow, the Colonial Auditor, respecting certain sums paid by him as remuneration for the services of extra Clerks employed in his Department from the 7th June, 1825, to the 4th March, 1827, amounting to the sum of £171 15s. 8d. Sterling; and I beg to acquaint you in reply that, under the circumstances which have occasioned this extra-expenditure, the charge will be allowed. Allowance of extra expenditure by auditor.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 103, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

I have had the honor to receive your despatch of the 20th September last, enclosing the copy of a Petition which you had received from the Revd. Dr. Laing and the Members of the Scots' Church at Sydney, praying for an allowance on the part of Government to assist in the maintenance of the Master of a School, which they propose to establish in that Town. Refusal of subsidy for schoolmaster for Presbyterians.

The aid, which His Majesty's Government has already afforded for the support of two of the Presbyterian Clergymen, is the extent of the assistance which, under present circumstances, I feel justified in authorising towards objects connected with the Presbyterian Church, whether it be with a view to the support of its Clergy or to Education; and I entertain the less difficulty in making this communication to you, in answer to the Petition which has been sent home upon these subjects, as I cannot conceive that any difficulty will be experienced in raising, by voluntary contributions amongst the Scotch Inhabitants themselves, the small sum which will be required for the accomplishment of those objects, and that consequently there exists no particular necessity for any assistance from the Colonial Government.

I am, &c.,
G. MURRAY.

1829.
16 April.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 104, per ship Sovereign.)

Sir, Downing Street, 16th April, 1829.

Approval of military patrol for Argyle and magistrate for Illawarra.

I have had the honor to receive your despatch of the 25th September last, reporting the circumstances under which you have deemed it expedient to station an Officer with a party of 15 men in the District of Argyle, and to send a Magistrate to Illawarra to superintend the Police of that District and of Shoel Haven.

Some arrangement of the nature of that, which you have adopted, appears to have been very necessary with a view to check the irregularities which, owing to there being no regular Magistrates in those Districts, would seem to have occurred; and I have therefore to approve of the allowances which you have authorised to be granted to the persons, whom you have employed upon this service, viz., to the Officer who has charge of the Military Party sent to the District of Argyle, a remuneration at the rate of 5s. per diem with an allowance of 2s. 6d. a day for Forage for his Horse; and to the Magistrate sent to the Districts of Illawarra and Shoel Haven an allowance of £150 a year, together with the annual sum of £70 to enable him to provide himself with a House.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 105, per ship Norfolk.)

18 April.

Sir, Downing Street, 18th April, 1829.

Despatch acknowledged.

I have had the honor to receive your despatch No. 13 of the 1st of February, 1828, transmitting various documents connected with various claims for compensation preferred by the Revd. Mr. Cowper, and the Revd. Mr. Hill, two officiating Chaplains at Sydney.

Claims of Revds. W. Cowper and R. Hill.

It appears that these claims were referred by you to a Board, consisting of the Lieutenant Governor, the acting Auditor, and the Collector of Internal Revenues, and that, in consequence of the opinion of the majority of that Board, that the Revd. Mr. Cowper possessed a fair and equitable claim for compensation to the amount of £725 18s. 6d., and the Revd. Mr. Hill to that of £304 12s., which sums you yourself were satisfied would fall short of rather than exceed what those Clergymen were entitled to receive, you have authorised the payment of those sums to them.

Approval of settlement of claims.

However disinclined I must generally feel to the admission of claims, originating at a period so remote, I am induced, under all the circumstances of this case, to convey to you an approval of the payments which you have already caused to be made to

1829.
18 April.

those Clergymen, together with the following directions on the subject of their ulterior demands.

In the circumstances of Mr. Hill's case, there is nothing sufficiently specific to warrant a departure from the award of the majority of the Board. In respect of Mr. Cowper's compensation, I agree with them that the Rations, claimed for his sons, should be disallowed from the respective periods from which these young men were provided for. I agree with them also that the annual sum of £40 has been properly deducted, as I cannot suppose, that the Secretary of State would have authorised that increase of Salary, if he had been aware that a special claim for Rations was also to be preferred. But I am further of opinion that Rations ought to have been allowed to Mr. Cowper by virtue of his agreement, both for his Servant, and for the Child born after his arrival in the Colony, the Child appearing to me to be included by the spirit of the agreement, and the servant by the very letter of it. The value, therefore, of these Rations for the child and Servant, from the time when they were discontinued, should be calculated and paid to Mr. Cowper.

Claims of Revd. W. Cowper.

Mr. Cowper's claim to Fuel and Rations having thus been admitted, it will, as you observe, be necessary to continue such advantages to him, or to make him a proper equivalent. These advantages in kind having been discontinued in all other cases, I should prefer the granting of a commutation allowance to Mr. Cowper; and, as you consider that the sum of £40 per annum, authorised by Earl Bathurst to be issued to him, would not be an adequate substitute for their value, and as the value of Rations for the Child and Servant will now be also to be included, I am induced to approve of your making to Mr. Cowper a yearly allowance of £100, in addition to his original salary of £260 per annum; and I trust that this arrangement, by which he will now be in the receipt of a clear Salary of £360 per annum in lieu of all other advantages, will be satisfactory to him.

Commutation allowance for Revd. W. Cowper.

This allowance of £100 will, of course, commence from the cessation of the compensations directed by the Board and by this Letter; and the new arrangement by way of Salary is then immediately to take effect.

I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.

(Despatch No. 42, per ship Australia; acknowledged by Sir George Murray, 1st October, 1829.)

Sir, Government House, 18th April, 1829.

I have the honor to transmitt to you the accompanying Copy of a Letter and Enclosures, addressed to me by Mr. Campbell, Member of the Legislative Council, on the subject of the

Compensation to R. Campbell for loss of ship *Sydney*.

1829. 18 April. Compensation to R. Campbell for loss of ship *Sydney*.

compensation which was granted to him for the loss he sustained by the Wreck* of the Ship "Sydney"; and I beg also to enclose Copy of my reply, and request you will be pleased to authorise my confirming by Grant the 1,000 Acres, which I have directed to be reserved for Mr. Campbell subject to your approval, with which he assures me he will be perfectly satisfied.

It may be unnecessary to add that Mr. Campbell is a most respectable Member of this community, the Father of a large Family, an extensive Merchant and a considerable Land holder.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Mr. R. Campbell to Governor Darling.

Sir, George Street, Sydney, 10th February, 1829.

Compensation in land for loss of ship *Sydney*.

I beg leave to trouble your Excellency with the following Statement and Enclosures, requesting to be favored with a reply at your convenience.

Enclosure No. 1 from His Excellency Sir Thomas Brisbane acquainting me that the Lords of His Majesty's Treasury had ordered me a grant of Land to the Value of £1,000 in part compensation for the loss of the Ship "Sydney."

In consequence of this Order, I applied to have the Land in the Cowpastures, but Your Excellency will observe, by Enclosure No. 2, I was informed there was no land there at the disposal of Government, and therefore I was compelled to chose it at Limestone Plains, a distance of more than 200 miles from Sydney, and Your Excellency will find by Enclosure No. 3 that the Surveyor General was instructed to make out a Grant of 4,000 Acres.

As this has not been executed, and as I stated at the time to William Lithgow, Esquire, the then Acting Private Secretary, that the above Land in that remote part of the Colony was over-valued at Five Shillings the Acre, and, as the Land Commissioners have since valued the Land granted to the Church Corporation in the County of St. Vincent, where mine is situated, at three shillings the Acre, I trust your Excellency (under all the circumstances of my unfortunate case) will consider that Sir Thomas Brisbane's ordering me only 4,000 Acres was not adequate to the Value of £1,000, and that Your Excellency will now be pleased to put me on the same footing with the Church Corporation, or order such further extension of the 4,000 Acres, as Your Excellency may think me justly entitled to.

The departure of Sir Thomas Brisbane prevented me remonstrating with him on the subject, and I did not think it requisite to trouble Your Excellency, until the Land was Surveyed and valued in the above County.

I have, &c.,

Robert Campbell.

[Sub-enclosure No. 1.]

Major Ovens to Mr. R. Campbell.

Sir, Private Secretary's Office, 18th May, 1825.

In obedience to Instructions from Earl Bathurst, I have, by His Excellency Sir Thomas Brisbane's Commands, the honor to acquaint you that the Lords of the Treasury have directed that the

* Note 195.

Sum of £2,000 shall be issued to you, and that a Grant of Land, and Cattle to the Amount of £2,000 more shall be also given you, the Land to be free from Quit Rent, as a compensation for the loss you sustained by the Ship Sydney. 1829. 18 April. Compensation granted for loss of ship *Sydney*.

The £2,000 will be paid to you by Bills drawn by the Deputy Commissary General on Mr. Brookshank of the Treasury, London; and His Excellency will direct the Land to be measured to you in such part of the Colony, as is unlocated, and so soon as you may find it convenient to Name an Individual to meet one on the part of Government; Instructions will be sent to the Superintendent of Government Stock, directing the Cattle to be mustered, in order to give you an opportunity of selecting the Number required, the Land and Cattle in equal proportions.

I have, &c.,
J. Ovens, Private Secretary.

[Sub-enclosure No. 2.]

Major Ovens to Mr. R. Campbell.

Sir, Private Secretary's Office, 25th May, 1825.

With reference to your Letter of the 23rd inst., I have His Excellency the Governor's Commands to acquaint you that he regrets there is no Land in the disposal of Government at the Cowpastures, where you have expressed a wish to have the quantity located, which has been ordered to you by Earl Bathurst. Land unavailable at the Cowpastures.

With respect to the Sheep, His Excellency has much pleasure in complying with your request, and desires me to say that you can have them from Government at a valuation. Sheep available at valuation.

I have, &c.,
J. Ovens, Private Secretary.

[Sub-enclosure No. 3.]

Mr. W. Lithgow to Mr. R. Campbell.

Sir, Private Secretary's Office, 19th November, 1825.

In the absence of the Private Secretary, I have received His Excellency The Governor's Commands to reply to your Letter of the 18th inst., and to acquaint you that the Surveyor General has been instructed to make unto you a Grant of Four thousand Acres of Land at Limestone Plains, free of Quit Rent, in part of the Compensation, granted you by Order of His Majesty's Government for the loss of the Ship Sydney, when proceeding to India to Import Supplies for this Colony. Land grant ordered at Limestone plains.

I have, &c.,
William Lithgow,
Act. Private Secretary.

[Enclosure No. 2.]

Governor Darling to Mr. R. Campbell.

Sir, Government House, 17th April, 1829.

I have the honor to acknowledge the receipt of your Letter of the 10th of February last on the subject of the Compensation in Land, which you received on account of the loss of the Ship Sydney. Letter acknowledged.

I beg to observe in reply that there appears to be some mistake with respect to the supposed valuation of the Land transferred to the Church Corporation, as the Land in the County of St. Vincent

1829. 18 April. Compensation proposed by R. Darling.

has in fact not yet been valued. But, without entering into this question, I shall, if you wish it, direct a reserve of 1,000 Acres to be added to the Grant you have already received, if approved by the Secretary of State. By this means, the value of the Lands will be valued from 5s. to 4s. per acre, and your claim will then be placed on the same footing as those entitled to the immediate payment in Money from the Government. I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 106, per ship Norfolk.)

19 April.

Sir, Downing Street, 19th April, 1829.

I have received and have read with much attention and interest your despatch No. 66 of the 10th of April, 1828.

Commendation of general report on colony.

The Account, which you have there given of the Trade, Agriculture, and interior economy of the Colony over which you preside, and of the general improvement which appears to be going on, is highly satisfactory to His Majesty's Government; and, while I express their gratification at the progress of the Colony, I cannot overlook the very laudable diligence and accuracy with which you have collected and brought under my view the numerous and interesting details comprehended in the Report to which I refer. I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 107, per ship Norfolk.)

20 April.

Sir, Downing Street, 20th April, 1829.

Appointment of R. Therry as commissioner of court of requests.

With reference to my Dispatch of the 12th of June last, I have the honor to acquaint you that, as it has been found necessary to retain Mr. Algernon Montagu at Van Diemen's Land, His Majesty has been pleased to appoint Mr. R. Therry to the Office of Commissioner of the Court of Requests in the Colony under your Government. I have, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 43, per ship Australia; acknowledged by Sir George Murray, 2nd October, 1829.)

Sir, Government House, 20th April, 1829.

Nomination of J. Rogers as assistant-surveyor.

I do myself the honor to transmit the enclosed Copy of a Letter from Major Mitchell, the Surveyor General, recommending Mr. Rogers for the appointment of Assistant Surveyor in the room of Mr. Florence, who has resigned.

1829.
20 April.

I have in consequence nominated Mr. Rogers temporarily, subject to your Orders, and I have the honor to report that I have placed Mr. D'Arcy in the situation of Draftsman in the room of Mr. Brown, who has retired from that Department. Appointment of draftsman.

Mr. D'Arcy was educated at the Military College. He is the son of an Old Officer, Major D'Arcy of the 39th Regiment, who has retired and settled here.

I have, &c.,
RA. DARLING.

[Enclosure.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, 20th April, 1829.

With reference to your Letter No. 29/262 dated 2nd inst., by which I was informed that His Excellency the Governor approved of the resignation of Assistant Surveyor Florance. Resignation of T. Florance.

I now do myself the honor to recommend Mr. John Rogers, at present employed as a Draftsman in this Department, to be appointed (at least temporarily) as an Assistant Surveyor in the room of Mr. Florance. Nomination of J. Rogers.

I beg to state that I consider it my duty to recommend Mr. Rogers to the favourable consideration of the Governor, because he is well qualified to perform the duties of a Surveyor, having learnt the business regularly in England; and also because he is very assidnous and diligent in his present avocation of a Draftsman, being also occasionally employed (for want of Surveyors) as a Surveyor.

I have, &c.,
T. L. MITCHELL, Surveyor General.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Australia.)

Sir, Parramatta, 20th April, 1829.

Having signified to you, in my Despatch of the 24th of last month marked "Separate," that the Charges* or Impeachment prepared by Mr. Wentworth, which I understood had been sent Home, had not been communicated to me, I now do myself the honor to inform you that the original, as it is designated (numerous Copies, as I am told, having been transmitted to England at the period above alluded to) was sent me on the 18th instant with a letter, of which I beg to transmit the enclosed Copy. Impeachment received from W. C. Wentworth.

The subject of the Charges, which I have not yet had time to read, relates solely to the case of "Sudds and Thompson"; they fill 68 pages of demi paper, and are very closely written; and I am informed by a Gentleman of my family, who is making an Abstract of the several heads, that they contain the grossest and most absurd calumnies admitting in general of the easiest refutation.

* Note 190.

1829. 20 April.

Executive council to consider impeachment.

I shall lose no time in bringing the document alluded to under the consideration of the Executive Council, the subject having been enquired into by that Body, when the occurrence took place, and in order that it may be replied to and disposed of in the most formal and satisfactory manner.

I have thought it necessary to give this explanation that you may be aware of the cause of delay, should any arise in forwarding the Proceedings of the Council in reply.

I have, &c.,
Ra. Darling.

[Enclosure.]

Mr. W. C. Wentworth to Governor Darling.

Sir, Sydney, 14th April, 1829.

Transmission of impeachment.

I have the Honor to enclose you the Original of a Letter of Impeachment against yourself, addressed to the Right Honble. His Majesty's Secretary of State for the Colonies, and to request, in conformity with the Rule* established by Earl Bathurst, that you will transmit it with such explanations and defence as you may deem advisable. I have, &c.,
W. C. Wentworth.

Sir George Murray to Governor Darling.
(Despatch No. 108, per ship Norfolk.)

21 April.

Sir, Downing Street, 21 April, 1829.

Despatches acknowledged.

I have had the honor to receive your despatches of the 6th and 24th Septr. last relative to Dr. Halloran, whom you had considered it necessary to remove from the Office of Coroner.

Approval of appointment of coroner.

As you had not reported his appointment, which consequently had not been confirmed, and as you have now seen cause to withdraw your recommendation and substitute the name of Mr. Smeathman, I think it right to confirm the appointment of the latter Gentleman.

Salary for coroner.

I approve the arrangement, by which it is proposed to reduce the emoluments of the Coroner's Office, by converting the two Allowances of £90 for Salary and £28 for Rations into an aggregate Salary of £100. I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.
(Despatch No. 44, per ship Australia.)

Sir, Parramatta, 21st April, 1829.

Despatch acknowledged.

I had the honor to receive on the 17th inst., with feelings of infinite pain and disappointment, the dispatch which you have been pleased to address me, under date of the 30th August last, No. 26.

* Note 196.

1829.
21 April.

I regret, Sir, it is not in my power at this moment to enter into the various matters contained in your despatch, though I am extremely desirous to offer some observations on some of the points alluded to, as I have been obliged to leave Sydney for the present, that the necessary preparations may be made at the Government House for the due Celebration of His Majesty's Birth-day.

Inability to transmit full reply.

I am, however, Sir, unwilling to permit the present opportunity to escape without communicating to you the Copies of two Letters, which have passed between Chief Justice Forbes and myself on the subject of your dispatch, and I can, Sir, only express my hope, disposed as I ever have been to carry on the Government in a satisfactory manner, that, under the new arrangements which are so well calculated to give effect to your wishes in this respect and the assurances contained in Mr. Forbes' letter, such good understanding will be restored, as will prevent a repetition of those occurrences which have unfortunately occasioned so much embarrassment here, and trouble to your Department. The fulfilment of the intention expressed in the Chief Justice's Letter will at once accomplish all that is desired, and I can only assure you, Sir, as I have Mr. Forbes, that nothing shall be wanting on my part to promote an object, which is so essential to the good Government of the Colony.

Correspondence with F. Forbes.

Prospects of better understanding with F. Forbes.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Chief Justice Forbes to Governor Darling.

Sir. Sydney, 18th April, 1829.

I had the honor, at a late hour on Friday afternoon, to receive a communication from the Under Secretary of State, enclosing an extract* from a despatch of the Right Honble. Sir George Murray to your Excellency, relating to the points unfortunately in difference between us. To the decision of the Secretary of State, I bow with the sincerest deference, and I must ever regret that circumstances, which neither of us could control, should have so disturbed the good understanding which formerly subsisted between your Excellency and myself, as to require the mediation of His Majesty's Government. The best proof, I can offer of regret for the past, will be the pledge of an earnest desire in future to fulfil the wishes and expectations of the Secretary of State; and, in the spirit of the recommendations conveyed by Sir George Murray, I assure your Excellency that it shall be my constant care, in all future communications, to meet your Excellency with all the feelings of confidence, goodwill and conciliation, which have been so energetically impressed upon us: I trust that your Excellency will receive this Letter as it is intended, and I shall consider it a favor, if your Excellency will not put yourself to the trouble of replying to it, should you deem it unnecessary. I have, &c.,

Regret of F. Forbes at differences with R. Darling.

Francis Forbes.

* Note 197.

1829.
21 April.

[Enclosure No. 2.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, 20th April, 1829.

Cordial relations to be maintained.

I have the honor to acknowledge the receipt of your Letter of Yesterday, in reference to the Communication lately received from the Secretary of State, and I beg to acquaint you that, under the assurance contained in your Letter, nothing shall be wanting on my part to give effect to the wishes of His Majesty's Government, being satisfied that it is important to the good Government of the Colony that a cordial understanding should subsist between the Individuals holding our respective Situations.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 109, per ship Norfolk.)

22 April.

Sir, Downing Street, 22nd April, 1829.

Roman Catholic relief act.

I have the honor herewith to enclose a copy of the Act, which has recently passed in Parliament* for relieving His Majesty's Roman Catholic subjects from all Civil and Military Disabilities, with certain specified exceptions.

I apprehend that this Act must be understood as extending to the Colonies, though certainly there is no positive declaration to that effect.

Act to be extended to colony.

But, to remove all possibility of doubt on so important a subject, it will be proper that you should recommend to the Legislative Council of New South Wales to pass an Act *declaring* that this Statute does extend to, and is in force in that Colony.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch marked "Separate," per ship Australia; acknowledged by Sir George Murray, 10th October, 1829.)

Sir, Parramatta, 22nd April, 1829.

Despatch acknowledged.

I have the honor to acknowledge the receipt of your Despatch, marked "Separate," dated the 30th of August last, which did not arrive here until the 17th inst., stating that a large proportion of the most important Business of the Colony is transacted without the advice of the Executive Council and calling my attention to my general Instructions† on this subject.

Neglect of R. Darling to consult executive council.

I may not, from the reason adverted to in your Despatch, have had recourse to the Executive Council so frequently as I otherwise should; but I am not, Sir, at this moment aware that any matter of importance has been transacted without the advice of

* Note 198. † Note 111.

1829.
22 April.

the Council. In considering all general principles and Regulations, such as those for the Granting or disposing of Lands, the Conduct and Management of the Convicts, and other matters of a like important nature, I believe the Council has been generally consulted. But, if it were intended that the Government should not act in any case without the immediate concurrence of the Council, I have certainly misunderstood the Instructions.

Advice of council on general principles.

It now occurs to me that I heard some time since that Chief Justice Forbes had mentioned pretty generally that my granting Land to Individuals, without the authority of the Council, was contrary to my Instructions;* But I paid no attention to the Report, conceiving, as I had made a point of framing all Regulations with respect to Land under the advice of the Council, that it could not be necessary or intended that I should consult the Council on every individual Application. If, however, it be so intended, I do not see how the Colonial Secretary and the other Officers of Government, who are Members of the Executive and Legislative Councils, can possibly attend to their more immediate duties, as it would in that case be necessary that the Council should assemble daily; the Applications not only for Land, but on other matters peculiar to the nature and state of this Colony, being extremely numerous and in general requiring immediate attention. I beg it may be kept in mind that this is a young Colony of a very extraordinary character, necessarily giving rise to a great variety and mass of Business:—In the first place, the arrangement of all matters connected with the Civil Government, which is not yet by any means matured; Secondly, the location of new Settlers, who arrive by almost every Ship; their applications and the necessary references with respect to their Land and other matters, in which they are interested; Thirdly, the Arrangements necessary for the disposal of the Convicts, and for the Conduct and management of those maintained at the Expence of Government, who are employed and disposed of in a variety of ways, as will be seen by my late Despatches respecting both the Male and Female.

Lands granted without advice of council.

Impossibility of consulting council *re* individual applications.

Variety of routine business of government.

I have thought it my duty to bring these points under your notice, and, having no other desire than to give effect to the intentions of His Majesty's Government, I shall cheerfully conform to whatever Orders you may be pleased to desire shall be carried into effect. It is at the same time necessary for me to apprise you that, even under the present Arrangement, some of the Establishments are found to be too small; and, if a new System be adopted, a corresponding organization must take place, which will render additional means necessary.

Desire to conform to orders.

Necessity for increase of establishments.

* Note 199.

1829. 22 April.

Changes necessary for transaction of all business by council.

In the Indian Governments, the Secretaries of the different Branches prepare the Documents to be submitted to the Council. Here they have hitherto been drawn up in my own Office. But, if the Business of the Government generally is to pass through the Council, it will be necessary to add some subordinate Clerks to that Department and to make such addition to the Office of the Colonial Secretary, as will enable him to have the Papers prepared, which are to be laid before Council, and also to admit of his attending its Sittings without interruption to the Business of his own Office.

Exclusion of judges from executive council.

I shall avail myself of a convenient opportunity of communicating to the Chief Justice the decision* of His Majesty's Government that no Judge should be a Member of the Executive Council; but, in doing so, it is my intention to request Mr. Forbes will continue in Council, until Mr. Wentworth's Charges against me have been investigated. I am induced to do this from the circumstance of Mr. Forbes having been present, when the matter was formerly enquired into.

Denial of charge of outside influence.

The next point, to which your Despatch adverts, has, I must confess, occasioned me the severest mortification as furnishing a proof of the arts, which are used to prejudice me in the opinion of His Majesty's Government. The unhappy Individual has, however, assailed me in a point, in which my Character is perhaps the least vulnerable. He might as well have stated that I was guided solely by the advice of Mr. Forbes, as that I am under the influence of anyone unconnected with the Government. I beseech you, Sir, not to allow any such impression to remain on your mind, as I assure you in the most solemn manner there is not even a Shadow of foundation for it. The Individual, who has thus dared to impose upon you, should be held up as an Example to deter others from resorting to such foul practices.

Slanders on R. Darling.

You will, I trust Sir, forgive my warmth. I have seen for some time past, how busily my Enemies have been employed in propogating their base Slanders. I should despise them, were there not some reason to apprehend that they are making an impression injurious to my Character. I allude, Sir, more particularly to the circumstance of the power of granting Land to the Civil Officers having been withdrawn from me, not that I regret the loss; and I appeal with confidence to the Letter, which I had the honor to address to you on the 24th November last on that subject, trusting that the Evidence, which it furnishes that my Conduct in that case was totally irreproachable, will be received as some proof that the fact of my being under improper influence is equally unworthy your attention.

* Note 200.

1829.
22 April.

It now, Sir, only remains for me to express my regret, if I have made any observation in my Correspondence unbecoming the Character of the late Mr. Mills. I shall ever be ready to repair any injury I may have done to the Character of others as to defend my own; and I shall not hesitate to cancel the part of my despatch to which you have alluded, as you are pleased to suggest.

Regret at remarks *re* G. G. Mills.

I have, &c.,
Ra. Darling.

Sir George Murray to Governor Darling.
(Despatch No. 110, per ship Norfolk.)

Sir, Downing Street, 23rd April, 1829. 23 April.

I have the honor to acknowledge the receipt of your Despatch No. 105 of the 16th of August, 1828. Despatch acknowledged.

The temporary appointments in the Surveyor General's Department, which you have reported in that Despatch, are confirmed with the exception of that conferred upon Mr. Hoddle. Appointments confirmed.

You have already been acquainted, in reply to your despatch No. 73 of the 13th of May last on the Subject of the Surveyor General's Department, that measures would be taken for increasing its strength and efficiency; and, in my Despatches of the dates and numbers mentioned in the margin,* I have communicated to you the appointments which I have made with a view to that object, vizt.: Mr. Perry, Deputy Surveyor; Mr. Nicholson, Assistant Surveyor; Mr. Larmer, Mr. Edward Hallen, Draftsmen. Appointments to survey department.

These appointments, excepting that of Deputy Surveyor General, are all *additions* to the former Establishment. They will, I am aware, be scarcely more than sufficient to keep pace with the increasing Business of the Surveyor General's Department; but the insufficiency of the Colonial Funds to bear a heavier charge, prevents my sanctioning, at present, any further augmentation of the number of Surveyors. By the judicious distribution, however, of the services of the Officers, of whom the establishment now consists, much may be accomplished; and the zeal and exertions of the Officers themselves will, at all events I trust, remedy the serious inconvenience to which the Settlers are represented to be exposed from the uncertainty, which prevails as to the Boundaries of their respective properties, and the delays which have arisen in obtaining their Grants, an object of no less importance to the Settlers than to the interests of the Revenue. Instructions *re* administration.

I am, &c.,
G. Murray.

* *Marginal note.*—No. 64, 12 Decr., 1828; No. 74, 23 Decr., 1828; No. 79, 5 Jany., 1829; No. 91, 26 March, 1829.

1829.
23 April.

Governor Darling to Sir George Murray.

(Despatch No. 46, per ship Australia; acknowledged by Sir George Murray, 14th October, 1829.)

Sir, Government House, 23rd April, 1829.

Transmission of financial statement.

I do myself the honor to forward for your information an "Abstract of the Net Revenue and Expenditure" of this Government for the year 1828, and it affords me, Sir, much satisfaction to have an opportunity of bringing under your Notice a Statement, which shews so important an improvement in the Revenue of the Colony.

Fixed or ordinary revenue.

1. It appears, by a Statement delivered in by the Auditor, that the Amount of the Fixed or Ordinary Revenue of 1826, the year I assumed the charge of the Government was £61,624, while the Sum collected last year under the same head, as appears by the accompanying Abstract, was £93,672, being an increase of £32,048.

In the sum of £93,672 is included £11,216 as arrears, etc., of the preceeding year, but it will be seen that a similar sum, as the Arrears of 1828,* will be accounted for in the present year.

Receipts in aid of revenue.

2nd. The *receipts* derived from the *local resources* of *the Colony* applied in aid of the Revenue appear to have amounted in the year 1826 to £10,171. In the last year 1828, the Amount was £25,454.

This latter sum would have been very considerably augmented, had it not been for the distress which has prevailed generally throughout the Colony, arising from the unexampled drought of the last two years, the Parties indebted to Government for Land, Stock, etc., having been unable to pay the sums due by them.

Proceeds of sales of stock and produce.

3rd. The proceeds of the Sales of Crown Stock, etc., and of Articles of Colonial Produce raised at the different public Establishments to the value of £19,415, have been transferred to the Commissariat under an Arrangement, which I made and reported in my Despatch of the 18th of February, 1828, No. 19, which has prevented the necessity of a sum to that Amount being raised by Bills on the Lords Commissioners of His Majesty's Treasury.

Comparisons of revenue.

4th. It may be proper to observe that, in the aforegoing Statement, I have assimilated the arrangement of the Revenue of 1826 to that of the last year, and have omitted to notice *Loans* and a few trifling Items, which, though necessarily introduced as matter of account, cannot be considered as properly coming under the head of Revenue.

Comparative statement of revenue.

5th. I beg, Sir, to add, for the information of His Majesty's Government, the following comparative Statement of the *Revenue* and *Receipts derived from the local resources of the*

* *Marginal note.*—See accompanying Abstract Page —. "Balance in the Colonial Treasury on 31 December, 1828, applicable to the Service of the Year 1829 *£11,722.*"

Colony for the years 1826 and 1828, excluding all other matters, so as to shew the actual improvement that has taken place in this particular Branch of the Government. 1829. 23 April.

Comparative statement of revenue.

	1826.	*1828.*
Fixed or Ordinary Revenue	£61,624	£93,672
Receipts in aid of Revenue	10,171	25,454
	£71,795	£119,126
Revenue and Receipts of the year 1826		71,795
Revenue and Receipts of 1828 *over and above* the year 1826		£47,331

6th. The accompanying printed Abstract has been prepared in pursuance of a "Circular" letter, which I had the honor to receive from you, dated the 6th of June last. The Colonial Secretary is now employed agreeably to your directions completing what is required, and the Documents will I trust be ready for transmission by the present opportunity. I have, &c.,

Documents to be transmitted.

RA. DARLING.

[Enclosure.]

[*A copy of this abstract will be found in a volume in series II. The total revenue was £226,191 16s. 7½d. and the total expenditure £214,469 7s. 2¼d.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 47, per ship Australia; acknowledged by Sir George Murray, 16th October, 1829.)

Sir, Government House, 24th April, 1829. 24 April.

I have the honor, in reference to my Despatch No. 5, dated the 10th of January last, transmitting the first Report of Captain Sturt, to forward for your information Copies of two other Reports,* which have been received from that Officer. Reports on exploration by C. Sturt.

The first of these is dated the 4th of last Month and contains an account of his proceedings to that date from the termination of his former report, bearing dated the 25th of December, 1828.

The substance of the Report now immediately alluded to, which is the *second* that was received from Captain Sturt, is to the following effect:—That the River Macquarrie ceases to exist near or about the spot, where the Expedition under the late Mr. Oxley terminated, which from the state of the Country at the time, being then under Water, could not be ascertained, and that another River of no inconsiderable magnitude, fed by salt springs, was discovered on the 2nd of February last, about 100 Miles to the Westward of the Macquarie, running to the Southward and Westward.

Course of Macquarie river.

Discovery of Darling river.

Captain Sturt's last report is dated the 16th inst. on his return to Wellington Valley, being the final close of his Expedition.

 * Note 172.

1829. 24 April.

Junction of Castlereagh and Darling rivers.

It appears by this Report that the "Castlereagh," when supplied with Water, joins the New River about 100 Miles to the Northward of Mount Harris. But at the time Captain Sturt traced the Bed of the "Castlereagh," it was perfectly dry for about twelve miles before it joined the New River.

Speculations re Darling river.

As Captain Sturt has not yet arrived at Sydney, or had time to complete the Map and Journal connected with his last on 3rd Report, it is impossible for me to judge whether the New River, to which he has done me the honor to attach my name, is a distinct Stream or only a continuation of the Castlereagh.

Map to be transmitted.

I shall however lose no time in forwarding the Map, to which he alludes, with any additional Remarks or observations on his Expedition, which he may be enabled to prepare on his return, and which may be likely to prove useful to you in considering the result of his proceedings.

Character of country explored.

It is to be regretted that this Expedition leaves so little to hope with respect to the Country to the North and North West of the River Macquarie. It appears, from the almost total absence of Water, to be altogether unavailable for the purpose of either Tillage or Pasture.

It is however satisfactory, unpromising as the Country is, that its nature and character have been ascertained, and that a question* of this importance, which has for some years past excited much curiosity and anxiety, has been thus put at rest.

Services of C. Sturt;

It is I am sure, Sir, unnecessary for me to draw your attention to the Services of Captain Sturt on this occasion. His exertions have been of no ordinary character. He appears to have conducted the Expedition, which continued for a period of more than four Months, in a very judicious manner and with a degree of patience and zeal which do him infinite credit, having been exposed for a great part of the time to intense heat, frequently without Water and occasionally obliged to make use of the most nauseous and unwholesome.

and of H. Hume.

I am happy to find, Sir, that Mr. Hume, whom I selected to accompany Captain Sturt, proved so able an assistant. His Services, from his general knowledge of the Country and Character of the Natives, must have been very important, and Captain Sturt has never failed to speak of his disposition and Services in terms of the warmest Commendation.

I have now, Sir, put you in possession of the result of the two Expeditions, which I have had the honor of reporting my intention to employ in exploring the Interior. My Despatch of the 24th of February last, No. 25, transmitted Mr. Cunningham's Second Report, which completed the line of communication between Sydney and the River Brisbane.

* Note. 201.

1829.
24 April.

By the Reports of Captain Sturt, which I have had the honor to transmit to you, it will be seen that the termination of the River Macquarie has been ascertained and the junction of the "Castlereagh" with a River discovered by that Officer. In addition to which, the character of the Interior to the North and North West has been made known.

Discoveries by C. Sturt.

I have now only to express my hope that His Majesty's Government will approve of the Measures, which were adopted for the accomplishment of these objects, and of the Zeal and exertions of the Individuals employed to carry them into effect.

Request for approval.

I have, &c.,
RA. DARLING.

[Enclosures Nos. 1 and 2.]

[*Copies of these two letters from captain Sturt to colonial secretary Macleay dated 4th March and 16th April, 1829, will be found in a volume in series V.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 48, per ship Australia; acknowledged by Sir George Murray, 3rd October, 1829.)

Sir, Government House, 24th April, 1829.

I have the honor to forward for your consideration the accompanying Copy of a Letter from Mr. Macquoid, the Sheriff, on the subject of his not having been allowed the portion of Salary (a moiety), which, according to a general rule, is usually granted to the Civil Servants from the date of their Embarkation to the time of their arrival and assuming the duties of their Offices.

Claim of T. Macquoid to moiety of salary from date of embarkation.

I have been induced, as the Public will not be subjected, under the arrangement which was made in succession to Mr. Carter who acted as Sheriff, to any Expense beyond the fixed Salaries of the Master of the Supreme Court and Sheriff, to authorise Mr. Macquoid's receiving a Moiety of his Salary from the date of his Embarkation until he assumed the Charge of his Office, subject to your approbation, which I trust, Sir, you will be pleased to sanction.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. T. MACQUOID TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 20th April, 1829.

When my appointment as Sheriff of this Colony was first communicated to me by the Under Secretary of State, he informed me that the Salary, attached to it, was not to commence till the date of my arrival in the Colony.

In a subsequent conversation, previous to my leaving London, I took occasion to call the attention of the Under Secretary to the

1829. 24 April.

Claim of T. Macquoid to moiety of salary from date of embarkation.

heavy Expense of outfit necessary to enable me to assume the duties of my Office, to the circumstance of no allowance being made for my passage out, and to the Salary not commencing until my arrival here; and I was induced, from what then passed, to expect that some satisfactory arrangement would be made. I mentioned at the time that I understood it to be the practice on similar occasions, in most of His Majesty's Colonies and in the Service of the East India Company, to allow a certain portion of the Salary to the person appointed, from the date on which the Appointment was made, the remainder being received by the Individual actually performing the duties, it being generally the case that the person so acting held some other Appointment, the Salary of which he was receiving.

But whatever may be the rule in such cases, the hardship to which an Individual is exposed, coming out to a distant Colony to take charge of a high and responsible Office, to which a certain rank is attached, which necessarily involves a certain appearance to be kept up without an Allowance of any kind whatever being made to him, either in the Shape of Passage Money or Salary, will be readily admitted; and, as I am informed that it has been usual, if not the invariable Rule under such circumstances in this Colony, to allow Half Pay from the date of Embarkation to Officers appointed to Civil Situations, I confidently trust I shall not be made an exception to a Rule so equitable. I therefore beg you will submit this letter to His Excellency The Governor with my respectful request that he will take the case, which I have felt it incumbent on me to represent, into his favourable consideration.

I have, &c.,
T. Maequoid, Sheriff.

Governor Darling to Sir George Murray.

(Despatch No. 49, per ship Australia: acknowledged by Sir George Murray, 18th October, 1829.)

Sir, Government House, 24th April, 1829.

Transmission of letter.

I have the honor to transmit to you, at the desire of Mr. Hovell, the accompanying Letter and Enclosures on the subject of his claim for Land.

Services of W. H. Hovell.

As to Mr. Hovell's services previous to my arrival, I have no knowledge of them; but I understand he was remunerated according to his agreement and to the same extent as Mr. Hume, who was considered the principal in the Expedition,* when employed by Sir Thomas Brisbane in the year 1825.

As to Mr. Hovell's services† at Western Port, I understood they were of very little value. He was equipped and maintained at the expense of Government during the whole period of his absence, and, on his return, received two square Miles of Land.

I apprehend that Mr. Hovell can have no claim to additional Land on the score of Capital; but I shall have this point enquired into and authorise his receiving whatever he may be entitled to.

I have, &c.,
Ra. Darling.

* Note 134. † Note 202.

[Enclosure.]

1829.
24 April.

MR. W. H. HOVELL TO SIR GEORGE MURRAY.

Sir, New South Wales, 31st March, 1829.

I have the honor to transmit for your consideration a Copy of a Memorial (No. 1) and of a Letter (No. 2) successively addressed to His Excellency Governor Darling, with a Copy of his Excellency's Reply respectively to each (Nos. 3 and 4). Documents transmitted.

The Documents No. 1 and 2 so fully detail the various Services, I have performed in this Colony, and the several Grants of Land, which I have been awarded in consideration of those services, and so distinctly explain the inadequacy of such Grants, not merely for the purpose of Remuneration, but even for covering my expenses and indemnifying my loss of time and detention from the care of my own concerns (to say nothing of the consequent personal hardships and privations) that I shall forbear to trespass on your valuable time by needless recapitulation. Services and inadequate rewards of W. H. Hovell.

I must, however, beg to offer one or two explanatory observations, and to contrast the Grants made to other Individuals with those, conceded to myself for our several Labors and Discoveries; between which a comparison will, I conceive, tend to demonstrate "that the rewards have been in inverse Ratio to the value and Importance of the Services." Comparison of grants given for discoveries.

On the Expedition* to Western Port, in which I was employed by the Colonial Government to assist in establishing the Settlement and to explore the adjacent Country, I was absent from my family and from the superintendence of my Agricultural and other concerns *"five Months,"* for which I received a Grant of 1,280 (twelve hundred and eighty) acres of Land, subject to Restrictions and encumbrances, so depreciatory of its value, as to render it a very inadequate remuneration for my loss of time and for the Sacrifice of my personal comforts and of my Interest, by such protracted Absence from my private engagements in the public Service. Land grant for services at Western port.

I had (previously, as I have also subsequently to the Journeys and discoveries, stated in my Memorial) made several minor Excursions, for which I neither received nor required any Compensation from the Government, *altho', from every one of those Excursions, Advantages more or less important to the Colonists were undeniably derived.* Minor discoveries unrewarded.

Under these Circumstances, I am constrained (in justice to myself and family) to appeal to you, Sir, as the Dispenser of the liberality of the British Government in her dependant Colonies, for a compliance with my request "for the Equalization of my original Grant to the Extent of *that* allotted to a Settler of the Request for extension of land grant.

* Note 202.

1829. 24 April.

first Class, as well as for that fair and equitable Requital of my Services, for which I have repeatedly but ineffectually applied to the local Authorities.

I have, &c.,
W. H. Hovell.

[Annexure.]

Land grants given to emplorers.

LAND GRANTS GIVEN TO EXPLORERS.*

Names.	Grants.	Services.
Messrs. W. Lawson, G. Blaxland, W. Wentworth.	1,000 Acres each	For Discovering a route across the Blue Mountains.
John Blaxland, Junior	1,000 Acres ...	For Discovering a pass from the County of Cumberland to the district of Hunter's River.
Mr. Bell, Junr.	a Grant	For finding a Route across the Blue Mountains from Richmond to Bathurst.
The late Charles Throsby, Esqr.	Several Grants .	for discoveries made in Argyle County.
Capt. Currie, R.N.	1,000 Acres ...	for accompanying Major Ovens to Monnaroo or Brisbane Downs, 50 miles South of Lake George.

[Sub-enclosure No. 1.]

Memorial of W. H. Hovell soliciting land grant and compensation for services.

THE MEMORIAL OF WILLIAM HILTON HOVELL, FREE SETTLER.

To His Excellency Lieut. Genl. Darling, Captain General and Governor in Chief of the Territory of New South Wales, and its Dependencies, etc., etc., etc.

Respectfully setteth forth,

That Memorialist and family emigrated to this Colony in the Year 1813, and received from the then Governor, Major General Macquarie, a Grant of (*700*) seven hundred Acres of Land, apportioned, agreably to the existing Regulations, to Memorialist's Amount of Capital, which exceeded (£500) five Hundred pounds.

That, in 1824, Memorialist received from His Excellency Sir Thomas Brisbane a further Grant of (500) five hundred Acres for his Discovery† in the preceding year of that part of the Country, known by the native name of "Borogorang," and for a plan, which was suggested by Memorialist and partly adopted by Government, of converting their wild Herds to profit for the Crown.

That, in 1825, Memorialist received a further Grant of (1,200) twelve hundred Acres in remuneration of the Expenses incurred, and the Difficulties and privations sustained in a journey, undertaken under the Sanction of His Excellency Sir Thos. Brisbane, across a Tract of Country, previously deemed impassable, to Port Philip.

That Memorialist accordingly disposed of this latter Grant to meet the purposes, for which it was expressly conferred; but that (£300) three hundred pounds only could be obtained for it, a Sum barely adequate to cover the Outlay for the Expedition, amounting to £280; the latter object of Remuneration for Memorialist's Privations, Sufferings, Dangers and Loss of time (Sixteen Weeks) was, therefore, entirely nullified.

Your Memorialist, in the year 1827, received from the bounty of your Excellency a further Grant of (1,280) twelve hundred and eighty Acres for his Services‡ in accompanying the Expedition to "Western Port," and in exploring the Country in the neighbourhood of that Settlement.

* Note 203. † Note 204. ‡ Note 202.

1829.
24 April.

Memorial of W. H. Hovell soliciting land grant and compensation for services.

That Memorialist humbly submitting the preceding facts to your Excellency's equitable Consideration, and especially his unrecompensed Services (as above detailed) in 1825, referring also to the important Benefits, the Colony has experienced, and is likely farther to experience, from his public Services; submitting moreover his long Residence on his original Grant, of which (400) four hundred Acres are completely cleared and fenced, and the great Increase of his Herds and Flocks, which require more extensive pasturage, most respectfully prays,

That your Excellency will be graciously pleased to allow to Memorialist such Accession to his original Grant of (700) seven hundred Acres from General Macquarie, as may equalize it to the proportion, usually allotted to Settlers of the first Class, with such other Grant or Indulgences, as your Excellency may deem a reasonable Compensation for his disappointment of the anticipated Requltal of his Services in 1825.

And your Memorialist, as in duty, and Gratitude bound, will pray, etc., etc., etc.

W. H. Hovell.

Narralling, 25th Septr., 1828.

[Sub-enclosure No. 2.]

Mr. W. H. Hovell to Governor Darling.

Sir,

Narraling, 23rd February, 1829.

Request for reconsideration of claims.

In rejoining to a Letter of the 26th ulto., which I have had the honor to receive, in reply to my Memorial of the preceding September, I pray your Excellency to be assured, that I am influenced solely by a Sense of duty to my Family; and that, in requesting your Excellency's Reconsideration of my Pretensions, resting equally on Precedent and Policy, I submit the following corroborative Observations with every Feeling of Deference and Respect.

Discoveries by private explorers.

It is a fact, I presume, within your Excellency's Cognisance that almost every important Discovery* of the Interior of the Colony has been effected by the Zeal and Enterprise of private Individuals, and that, of those discoveries, even the least valuable has been handsomely acknowledged and liberally remunerated by the contemporaneous Administration. Even the Additions to our topographical knowledge, acquired by the Labors and Exertions of public Officers on full pay in the Service of Government, have been munificently requited; more particularly in the case of the late Surveyor General,† who, in 1819, received (2,000) two thousand Acres, and in 1821, an additional Grant of (1,000) one thousand Acres; while the Officer,† acting under him, was remunerated by a proportionate Quantity, at a time too, when such extensive Grants were of rare occurrence. These liberal Donations were awarded to those Gentlemen for certain Discoveries, made by them, valuable indeed, but neither in extent nor in importance (without intending any invidious or disrespectful Allusion to those meritorious Officers) by no means comparable to my discovery, made without expense to the Government, of a most valuable and interesting Tract of Country, and by a Route, which the Surveyor General himself had previously pronounced "utterly impassable."

Rewards for discoveries by officials.

Land grant for expedition to Port Phillip.

It is true, indeed, that the late Governor honored me with a Grant of (1,200) twelve hundred Acres, with permission to dispose of them for Reimbursement of my Expenses, and in Compensation of the Loss of time and the personal Risque and privations, by which the

* Note 205. † Note 206.

1829. 24 April.

discovery of this fine and extensive Country was purchased for the public. But I beg to repeat the fact that the licensed Sale of this Grant of Land produced a Sum barely adequate to cover my actual Expenses, leaving my personal hazards and Sacrifices entirely unrequited.

Land granted for services at Western port.

It is true also that your Excellency was graciously pleased, in Acknowledgement of my Services in accompanying the expedition to Western Port and in exploring the adjacent Country, to honor me with a Grant of (1,280) twelve hundred and eighty Acres; but allow me respectfully to suggest to your Excellency "that, even this Grant is subject to Conditions and Restrictions, which render the terms of its tenure almost equivalent, or but very little preferable in actual Advantage, to those of an absolute purchase."

Inadequacy of remuneration.

From this statement of facts, I trust it will be obvious to your Excellency that my Remuneration "for my public Services, far from deserving to be considered 'ample,' has actually failed to indemnify the Expense of Money, of time, of personal fatigue and hazard with which they were attended."

Repetition of request for extension of original grant.

Viewing the precedents to which I have adverted, and considering the good policy of liberal Encouragement by the Government to public spirited Adventurers, from whose Labors and Dangers the Colony has derived and may continue to derive the most important benefits, I confide your Excellency will not conceive me unbecomingly importunate, or arrogating undue Consideration, by the Repetition of my earnest Request "That my original Grant may be equalized in extent to that of Settlers of the first Class," an Indulgence, which has been conceded to old Settlers, whose Flocks and Herds have like mine increased beyond the Capacity of their limited Grants, even though their Claims to such Indulgence were unsupported by the plea of personal Services, and of important public Advantages accruing from them.

Request for reward for expedition to Port Phillip.

I would also beg leave respectfully to remind your Excellency that, for the Labor, Loss of time, Hazard and Expense, attendant on my Tour in 1824 and 1825 (the most important and extensive ever yet made in these Colonies) remain to this day unrequited, as is evident from the preceding Statement. I must, therefore, express my confident Hope that your Excellency's sense of Justice and of the real Value of the public Services, performed on that occasion, will incline your Excellency to meet this Appeal by their liberal though late Remuneration, in such Manner and proportion as to your Excellency, on a Candid Reconsideration of my case may appear reasonable and adequate. I have, &c.,

W. H. Hovell.

[Sub-enclosure No. 3.]

Colonial Secretary Macleay to Mr. W. H. Hovell.

Sir, Colonial Secretary's Office, 26th January, 1829.

Refusal of requests by R. Darling.

I am directed by His Excellency, the Governor to acknowledge the Receipt of your Memorial of the 25th September, and to inform you "that His Excellency considers you have been amply remunerated for any public Services you may performed," and that, consequently, "your Request for additional Land, on that Account, cannot be complied with." I have, &c.,

Alexr. McLeay.

[Sub-enclosure No. 4.]

1829.
24 April.

COLONIAL SECRETARY MACLEAY TO MR. W. H. HOVELL.

Colonial Secretary's Office, 20th March, 1829.

Sir,

I have duly received and submitted to the Governor your letter of the 28th Ulto., renewing your Application for Land as a remuneration for your Expeditions into the Country in the Years 1825 and 1827 respectively, as well as for an addition to the Grant, made you by Governor Macquarie, on Account of your increased Stock, and, in reply, am directed by His Excellency to inform you "that he considers you have been sufficiently remunerated for your Services"; and "that, as you have received land to a greater extent than is ever granted, except in special cases, your Application cannot be complied with."

Refusal of requests by R. Darling.

I am, &c.,
ALEXR. MCLEAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 51, per ship Australia; acknowledged by Sir George Murray, 27th September, 1829.)

Government House, 27th April, 1829.

27 April.

Sir,

It becomes my duty to report to you that Mr. Panton, the principal Post Master, died on the 25th inst. and that I have appointed Mr. Raymond, the late Acting Searcher and Surveyor of the Customs, to succeed with the Full Salary of £400 per Annum.

Death of G. Panton.

Appointment of J. Raymond as postmaster.

As Mr. Raymond holds no other Appointment, I have felt it would be impossible to carry into effect the Orders, conveyed in Earl Bathurst's Despatch dated the 11th September, 1826, No. 65, as the Half Salary would not have enabled him to support his situation or have afforded his numerous family the means of existence in this expensive Colony.

I beg, Sir, to take this opportunity of requesting information, whether the Instructions, above alluded to, are intended to apply in the case of appointments to Vacancies of Persons holding no other offices. It is presumed that a Person, temporarily transferred from one Office to another, would retain a Moiety of the Salary of his own Office, besides receiving a moiety of that to which he is appointed. But in general that Person would be succeeded for the time by an Individual holding no other Appointment, and, in such case, the moiety of the Salary of the Subordinate Office, to which he succeeds, would not be an adequate remuneration for the duties he had to perform.

Instructions required *re* salaries for temporary officers.

For instance, a Person, holding no office succeeding another who is removed, but retains a moiety of his Salary of £300 or £400 a year (and the Salaries in general are of less amount), would be paid at the rate of £150 or £200, a sum evidently too small, none of the Salaries here bearing an undue proportion to the respective situations.

Effect of standing instructions.

1829. 27 April.

Practise proposed by R. Darling.

I therefore, Sir, submit to your consideration that persons temporarily appointed should receive the full Salaries of the Offices to which they succeed. No additional Expense, beyond the fixed Establishment, will be occasioned by this, with the exception of the Half Salary for the short period of the Voyage out, to be paid to the Person, who may be appointed at Home to the Vacancy; and the supercession of Individuals, who have acted for twelve or fifteen months, necessarily neglecting their other pursuits, gives them a strong claim to all the advantages of their temporary situations.

Reasons for appointment of J. Raymond.

I cannot close this Communication without pointing out that I have placed Mr. Raymond in the Situation of Post Master, chiefly with a view of preventing the inconvenience which your office would have experienced by his return to England, and the Expense to which this Government would have been subjected, as his family, consisting I believe of 14 or 15 Persons, could not have been permitted to starve during his absence, and he had actually engaged his passage in the ship, by which I now write, in order to push his claims at Home.

I take no interest in Mr. Raymond's success, who was a perfect stranger to me when he came out to this Colony, beyond a feeling for the distressed state of his Family, which was once in independent circumstances, and a desire to do justice to his claim on the Government for the Zeal and assiduity with which he performed the duties of the Office, in which he has been lately superseded.

I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 111, per ship Norfolk: acknowledged by Governor Darling, 23rd November, 1829.)

1 May.

Sir, Downing Street, 1st May, 1829.

Despatch acknowledged.

I have received your despatch, dated the 11th of May, 1828, No. 72, transmitting a Petition from the Wife of the Convict "Edwards" or "Lockaye."

Identity of A. Lockaye.

The statements, made by you, leave no room for any serious doubt as to the identity of Lockaye and Edwards; It would seem sufficiently obvious that the latter name was assumed at the Cape of Good Hope as a disguise.

Notwithstanding my personal conviction upon this subject, I am not, however, satisfied that the enquiry into the case has hitherto been pursued in that formal and solemn manner, which the nature of the statements made by Mrs. Edwards would seem to require. If it were really true that Edwards had been mistaken

1829.
1 May.

for another person, and subjected to a long course of confinement and severity under the influence of that error, the case would indeed demand the most prompt relief and ample reparation. It appears to me that the parties, preferring such allegations, should be allowed every opportunity of substantiating them before the regular Tribunals of the Colony. If Edwards be not, at the arrival of this despatch, within the Town of Sydney or its vicinity, he must be brought there, and must be apprized that he may apply to the Supreme Court for a Writ of Habeas Corpus to try whether he is properly detained under the Sentence against Lockaye. No technical impediment must be raised on the part of the local Government or its Officers to the full investigation of that question.

Necessity for full investigation *re* identity.

You will not suppose that I can place the assertions of Edwards, or his Wife, in any comparison with your own, or hesitate to give implicit credit to the general contradiction you have made to their charges. But, on the other hand, some of her allegations are of so very definite a character that it is scarcely convenient to oppose to them merely a general denial. On a reconsideration of the subject, I am pursuaded that you will think it desirable to give her specific statements that complete and precise answer, which I am well assured of your ability to make. Her style of writing is, indeed, so ill-advised and intemperate as to justify a severe expression of your displeasure, were it not for the apology, which is to be found in her sex, her foreign birth, her conjugal anxiety, and her unmerited afflictions. It is from consideration of these circumstances that I deem it needless, if not improper, to censure various expressions, which would otherwise have called for a strong mark of disapprobation.

Criticism of case.

You will transmit to me copies of any Judicial or other proceedings, which may take place on this subject. If the identity of Edwards and Lockaye should not be satisfactorily established, the party must be discharged from all further restraint and permitted, if such should be his wish, to leave the Colony.

Instructions for future procedure.

I am, &c.,
G. Murray.

[Enclosure.]

Mrs. E. Edwards to Right Hon. W. Huskisson.

Sydney, 10 April, 1828.

Sir.

Letter from E. Lockaye *alias* Edwards.

When, thro' the friendship that subsisted between Admiral Bertie, His daughter, and Officers, and my late father Mr. Petrus Rhons at the Cape of Good Hope, I became intimate with the worth of the British character, and, when, thro' reading English books, I comprehended the genius of a people which could make the plausible improbability of a Shylock, I prayed that for my Husband I might have one of this great Nation, and, altho' I have had nothing but

1829. 1 May. Letter from E. Lockaye *alias* Edwards.

misfortune since my marriage. I still consider myself happy in the fate which united me to Mr. Wm. Edwards, an English Notary in Cape Town.

Besides the above Genl. Pigot and the officers of the 21 light Dragoons will inform you of the worth and honor of my family.

So, without further introduction, I will state my heartrending situation, and seek from the real English Gentleman that compassion and justice, which is not to be had from any of another caste.

My Husband was employed professionally to prosecute Lord Charles Somerset as Judge of the Court of Appeal. He took the first step in our Law and made a notarial Notification to his Lordship, for which Dutch Judges (I am descended from the Germans) condemned him to 7 years' transportation here.

On our arrival, he claimed to be exempt from the Law affecting English Convicts; and the government, finding he could not be held under it, set up a pretence that he was one Lockaye a runaway, and people were procured who swore that it was so.

We were then sent to a Penal Settlement; and, after having been detained there three years, on the high recommendation of two successive Commandants to my Husband's good character, we were recalled and sent to Bathurst, a settlement in the interior, where the Colonial Secretary in the name of His Excelleney Genl. Darling immediately informed the Superintendent that my Husband was a man of bad and dangerous Character.

In consequence of this letter, decidedly at variance with the alledged reason for relieving us from the penal Settlement, we were persecuted beyond measure by a Military Officer of the place, who prevailed on Genl. Darling to send us a hundred miles farther into the Wilderness, because my husband (who was obliged to earn our bread by his pen) had been solicited to write the Brief of a man committed for trial, and, altho' he refused to comply knowing the man was disliked by the Government Officers, the person has been subsequently acquitted.

My Husband to explain his Offence to the Colonial Secretary; but, as it was unnoticed, I wrote to the private Secretary a letter, which was laid before Genl. Darling, who without reading it answered that he would not be troubled about us; so, without offending and unheard, we were condemned by Genl. Darling to be placed in the mountains 100 Miles beyond the reach of medical Assistance to my ill-health, or the means of getting bread for our Children.

Rendered desperate by our persecutions, my husband appealed to the Supreme Court and informed the Chief Jnstice, he shd. attend on His Honour; in consequence of which, he left home on the 1st of January last and repaired to Sydney.

The Judge being at his farm, he waited for his return; but, after 10 days, the Governor, pretending to believe that he was leaving the Colony, offered £50 reward for him, being 25 times more than has ever been paid for a man only charged with absenting himself, and he was sentenced to be sent for three years to Norfolk Island, six months working on the Roads, being the severest sentence theretofore passed on any ease of simple absentee.

Distracted at the thought of leaving myself and Children unprotected in a strange country, my loved Husband authorized me to make any concession that might be asked, and assured me he would submit (for our sake) to whatever might be required, tho' he declared to me that the pretence of his being Lockaye was false.

1829.
1 May.

Letter from E. Lockaye *alias* Edwards.

In his name and my own, I offered every concession, but was told by the Secretary McLeay that he did not speak his real sentiments.

Whilst I accidentally learnt that our gracious Sovereign had more than 2 years ago commanded* the Governor to release my Husband on proving that he was not Lockaye. Mr. Shewell, an English gentleman, informed me of a person, who had recently conversed with the real Lockaye working for government on the Roads.

I communicated this latter fact to the governor, but it was not noticed; Mr. Shewell has made an Affidavit of it before the supreme Court, and my poverty alone prevents me sending you the Copy of his Affidavit.

I have since found that the person, who saw Lockaye, has been silently released from prison and Lockaye removed from the place where he was seen.

When my Husband was brought to trial, the lowest and basest of people were called to swear that he was Lockaye (except two Govern't. Surgeons), who all on Cross Examination so contradicted themselves and each other as to show that he was not the man; but, the Magistrates having refused to take down these Cross examinations, I sent them to Genl. Darling in March, 1826, and I hope you will require the Document from him, as the Police Clerk after reading it assured me it was a most correct report, and it will refute all the falsehoods of our hard hearted enemies and persecutors.

Every time my Husband has been taken before the Magistrates for what they here call "a trial," he has been taken unprepared at a moment's warning, after having been for a long time previously closely precluded from conversing with any person; and latterly I have been more than a month denied the happiness of conversing with him.

To get rid of this horrible state of suffering, I proposed that, if we were allowed to live in some remote part of the Colony under the strictest Surveillance, my Husband should within 2 years procure from England the proof His Majesty had required, or for ever bear the sentence of Lockaye; but it was refused, as nothing would satisfy these Christian rulers but to separate us or to take from me what Shylock required.

Nothing will suit General Darling which will give us a fair trial. He thinks by persecuting my beloved wretched Husband to please the Beaufort family and procure for himself a powerful Patron, as if such Patrons were before a clear conscience and the patronage of a just and merciful God or a great and benevolent Monarch; whilst I on the contrary think that, by laying my melancholy case before you, I shall procure the patronage of a real Gentleman of England, unwarped by prejudice or passion, and thro' you the kind consideration of our gracious Sovereign towards my persecuted Husband, my family and myself.

I cannot help bewailing the cruel persecutions I have endured under Genl. Darling. He published a general Amnesty to all Prisoners at penal Settlements under illegal sentences; my Husband was the only exception out of 700.

He offered to all free married women of good character an assignment of their Husbands; I was a solitary exception, altho' I challenge Genl. Darling to shew a Wife or a Mother in the Colony with a better Colony.

* Note 207.

1829.
1 May.

Letter from E. Lockaye *alias* Edwards.

In fact he has made so many orders, notices and proclamations from which he has immediately deviated, it is become the general opinion his notices are not intended to act here, but to have stage effect in England; and some people compare them to the houses Children build with soiled cards.

The Secretary McLeay said my Husband did not speak his real Sentiments, when he spoke humbly and respectfully, and that General Darling was convinced of it. I will not pretend to judge whether General Darling draws this conclusion from a conviction that he did not merit it, or from a suspicion that, like his letters of recall from Port Macquarie and our removal to Bathurst, he said one thing whilst he meant another.

General Darling employed the Police to intercept and seize my Husband's papers, and I hope you will require him to forward them all for your inspection and also the letter of my Husband, 14 January, 1828, soliciting their restoration; and then, Sir, you may compare the noble sentiments of my Husband's application with the pitiful prying action of His most sacred Majesty's representative, condescending to peep into the purloined secrets of misfortune.

Several humane Gentlemen have endeavoured to intercede for me that my Husband might not be torn from me, and they have informed me that General Darling invariably flies into so great a passion at our name being mentioned that they dare not speak of us again. Great God! is it possible that this man can be made in the same mould as the noble poet, who says,

> What are Judges who give way to passion;
> They are not men, they are Assassins.

So unrelenting has been the vindictive persecution with which Genl. Darling has pursued my unoffending Husband, that he has not only set at nought the fine system of classification of felons in England, but has condescended to give orders to the Keepers of the Goal and Hulk, which puts a man of probity, liberal education and polished manner on a level with the worst of Malefactors.

Indeed, Sir! I am convinced that Genl. Darling does not believe that my Husband is Lockaye, as he has invariably shrunk from seeing me, when I have waited on him at Govt. House on his days of business, and that he knows that, if he were in our situation, and some other Governor wished to persecute him, the same persons, who have now sworn against us, would swear they had known him as a felon; if such were not his opinion, why did he not communicate to us His Majesty's royal pleasure* two years ago, and require us to rebut the idle pretence that Mr. Edwards is Lockaye, or suffer as such? Why did he not seek Lockaye, when I told him where the felon was to be found? Why was he and the man, who saw him, silently removed out of my knowledge? Why always keep Mr. Edwards so closely confined before trial and ignorant of the intention to put him on his trial? Why refuse to let me his wife see him for a month? Why refuse to receive me on his day of business as I have not soiled my fair fame, unless he may think I do it by a virtuous adherence to a worthy Husband. And why shrink from his public duty in hearing what I could urge in our defense?

I could proceed at great length on this matter, but I fear I shall grow tiresome; so I will cease, convinced that I shall at your hands meet the justice and mercy which is due to my sufferings, and that by you my husband will be put in a situation to have a fair trial in England beyond the reach of persecuting obstinacy.

* Note 207.

Fearful that Genl. Darling may omit to send the whole of the papers taken from my Husband, which will shew how we have been persecuted, I shall send his Journal, in which they are all nearly copied to his brother Mr. John Edwards, as soon as I can procure it from the person in whose hands I left it at Bathurst to be laid before you. and I have, &c.,

ELIZABETH EDWARDS
(Geboren Reus).

1829.
1 May.

Letter from E. Lockaye *alias* Edwards.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 52, per ship Mary; acknowledged by Sir George Murray, 8th December, 1829.)

Sir, Government House, 2nd May, 1829.

2 May.

I have the honor to report, in reference to your Letter of the 30th of August last, marked "Separate," that, in obedience to His Majesty's Commands, I have nominated Colonel Patrick Lindesay, 39th Regiment, to succeed Mr. Forbes as a Member of the Executive Council, until His Majesty's pleasure shall be known. I have, &c.,

RA. DARLING.

Nomination of P. Lindesay to executive council.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

Dear Sir, Downing Street, 3rd May, 1829.

3 May.

I beg to recommend to your protection and good offices Mr. Alexander Lowe, who has already proceeded as a Settler to New South Wales; and I shall be obliged to you to afford him any facilities, which it may be in your power, consistently with established Regulations, to render. I remain, &c.,

HORACE TWISS.

Recommendation of A. Lowe as settler.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 53, per ship Mary; acknowledged by Sir George Murray, 8th November, 1829.)

Sir, Government House, 5th May, 1829.

5 May.

I do myself the honor to forward the enclosed Letter from Colonel Lindesay of the 39th Regt. requesting, with reference to the Civil Duties he is called on to perform as a Member of the Executive and Legislative Councils, that he may be considered as having a Claim to remuneration for his Services in the above capacities.

Transmission of letter.

I avail myself with much satisfaction of this opportunity of bearing testimony to Colonel Lindesay's Zeal and devotion to the public Service, and of recommending his application to your favorable consideration.

Testimony in favour of P. Lindesay.

* Note 3.

1829. 5 May.

Absence of allowances for military in colony.

In this Colony, where even the common necessaries of Life are extremely expensive and everything else dear in proportion, the Military receive no allowances whatever beyond their bare Pay; while, at the Mauritius, where the Commandant of the Garrison receives additional Pay as such, the *Colonial Allowances* to that Officer are not less, if I recollect, than *180* Dollars per Month.

Colonel Lindesay performs the same duties here without any remuneration, as the Commandant of Port Louis performs at the Mauritius, and they both hold the same rank in the Service.

I have, &c.,

Ra. Darling.

[Enclosure.]

Colonel Lindesay to Sir George Murray.

Sir, Sydney, New South Wales, 4th May, 1829.

I do myself the honor to submit for your candid and favourable consideration the following statement connected with my publick Services in this Colony, and I earnestly beg that you will be pleased to bestow upon it such a degree of attention as it may appear to you to merit.

Appointment of P. Lindesay to command of garrison.

Upon my arrival in New South Wales in November, 1827, I was appointed to succeed Colonel Stewart of the Buffs in the command of the Garrison of Sydney, and chosen a member of the Legislative Council; so that, altho' the Situation of Lieutenant Governour was at that juncture abolished, I virtually undertook the same duties as had formerly been performed by him, with the single exception of my not having a seat in the Executive Council. In April, 1829, I was sworn in a member of that Council likewise, and have now imposed upon me as great a share of the labours of the Legislative and Administrative functions of the Colonial Government as were formerly intrusted to the Lieutenant Governour.

Civil duties performed.

Want of remuneration.

But, while my time is engaged in the publick affairs of the Colony and in the Command and discipline of the Garrison of Sydney, as much as my predecessor's was, I would respectfully submit to His Majesty's Government that it seems hard that no remuneration should be allowed me similar to that, which the late Lieutenant Governour enjoyed while acting in the same capacity, and that, while all the other Members of the Legislative and Executive Councils are either liberally paid for their publick Services or have large stakes in the Colony, I am the only one who can be considered as receiving no compensation whatever for my civil employments.

There is another circumstance to which I would crave your notice, viz., that, at the Cape of Good Hope and the Mauritius,

1829.
5 May.

the Officers commanding the Garrisons of Cape Town and Port Louis receive additional pay in consideration of their Services, while I am required to superintend the Garrison of Sydney upon the bare pay of Lieutenant Colonel; and it may not be improper to remark that, from the vicious habits of the Convict population which are with difficulty prevented from spreading to the Military, the task of managing the troops cannot be less arduous here than at either of the above named stations.

Allowances to commandants at Capetown and Port Louis.

To you, Sir, equally distinguished as a Soldier and Statesman, I commit my case, fully impressed with the belief that, should you consider my observations just, you will be disposed to remove the hardship, to which I deem myself to have been so long subjected, by ordering an adequate compensation to be issued to me for my past Services in this Colony and to be continued in future.

Request for compensation.

I have, &c.,
P. Lindesay,
Colonel and Lieut. Col., 39th Regt.

Governor Darling to Sir George Murray.

(Despatch No. 54, per ship Mary; acknowledged by Sir George Murray, 19th October, 1829.)

Sir, Government House, 5th May, 1829.

Having received a Letter, of which the enclosed is a translation, signed "Maihara, Queen of Huahine,"* one of the Society Islands, stating that some men, Convicts who had piratically seized a small vessel at Shoal Haven, the property of Messrs. Berry and Wollstonecrafts, and proceeded thither, had committed various depredations and kept the Inhabitants of that and the neighbouring Islands in a state of alarm, I informed Captain Laws of His Majesty's Ship Satellite, employed here, of the circumstance, and requested, if it should not interfere with any other Service he was charged with, that he would go to Huahine and endeavour to secure the Pirates.

Complaint by Maihara *re* depredations by convicts.

I have great pleasure, Sir, in stating that Captain Laws undertook this Service without hesitation, and, having furnished him with Letters to "Maihara" and some Articles as Presents, he left this in the end of January and has just returned, having been absent a little more than three Months.

Visit of J. M. Laws to Society islands.

The enclosed Letter, addressed to me by Captain Laws, with Copy of one which he has forwarded to the Naval Commander in Chief in India, as also the Copy of another which he has written to the Admiralty, will put you fully in possession of Captain Law's proceedings and observations during his visit to the Society and Friendly Islands.

Transmission of reports.

 * Note 208.

1829. 5 May.

I am happy, Sir, to think, from the nature of Captain Laws' communications with the Chiefs and Inhabitants of the several Islands and the disposition of the Missionaries, of whose conduct and exertions he speaks in terms of the highest praise, that the confidence, which the People of these Islands have reposed in the British Government, will be confirmed and strengthened.

Confidence of islanders in British government.

I beg to add that Captain Laws has brought back seven of the Pirates, who will be immediately proceeded against for the Act of which they have been guilty. I have, &c.,

Capture of pirates.

RA. DARLING.

[Enclosure No. 1.]

QUEEN MAIHARA TO GOVERNOR DARLING.

25th August, 1828.

Dear friend Darling, Peace be to you from God.

Complaint by Maihara *re* depredations by convicts.

Some white thieves are here, who have come from Botany Bay in a boat which they stole from Botany Bay; they are here with us. They have again stolen a Boat belonging to Barff; they have also broken open a house belonging to Mahine, and stolen therefrom Six Muskets and a cask of powder: in fact they have left nothing in the house. We despatched a boat after them with a Number of our Men; they overtook them out at Sea, when they commenced firing upon our people, killed two and Wounded Six; five escaped unhurt. The thieves escaped.

This is our Word unto you, the Governor of Botany Bay, unto all the inferior Chiefs and inferior Governors, and to all the people of Port Jackson, agree cordially to our Word, this is what we say: send one of your Ships, Darling, and fetch these thieves and take them back again to Botany Bay; they are a set of evil doers: Behold two of our people have been killed, and Six have been Wounded. These Men are very troublesome; they are Murderers; they are ungrateful; we have behaved kindly to them and they have behaved ill to us. It is because the Gospel has influence over us that we have not killed the White Men, who still remain amongst us. We are striving to prevent any difference from arising between you and us, and then it will be well with us all. Let us all turn to Jesus. That is all I have got to say to you dear friend.

May you be saved through Jesus Christ, our true Lord.

MAIHARA, Queen of Huahine.

A literal translation:—ROBERT BROWN.

[Enclosure No. 2.]

COMMANDER LAWS TO GOVERNOR DARLING.

H. Majesty's Sloop Satellite,

Sir, Sydney Cove, 4 May, 1829.

Pirates apprehended by J. M. Laws.

In consequence of the Documents you submitted to me on the 28th December last (after visiting New Zealand), I proceeded in His Majesty's Ship under my Command to the Society and Friendly Islands, where I succeeded in apprehending the Convicts alluded to in the Queen of Huahine's Letter, that were still remaining among the Society Groupe; and, for your further information, I transmit a Copy of my Letter to my Commander in Chief on that Subject. I have, &c.,

JNO. M. LAWS, Commander.

[Sub-enclosure.]

1829.
5 May.

COMMANDER LAWS TO COMMANDER-IN-CHIEF IN INDIA.

H. Majesty's Sloop Satellite.

Sir, Port Jackson, 3rd May, 1829.

I have the honor to inform you of my return here after visiting New Zealand, Otahieta, Eureo, Huahiene, Ulietea, Otaha, and Bolabola, where I succeeding in apprehending all the Convicts that were remaining on those Islands, and, as far as I could, redressed such grievances as the Natives had just cause to complain of, which were particularly flagrant at Hnahiene, where the Convicts, alluded in my last Letter, had not only murdered two and wounded Six of the Natives, but stolen a boat and stripped the House of the Principal Chief, Mahine,* of all either he or his wife possessed, leaving them no European Cloathes, of which all the Natives are particularly fond and careful; and, as a mark of respect and attachment towards this Chief, they ceased to wear until an opportunity offered of replenishing their Wardrobe, which I had the satisfaction of doing from the things that were sent on board by His Excellency General Darling before I left Port Jackson; and from the same source, I, in some degree, reestablished his Armoury, which was by no means contemptible; Mahine, being the Heir of Ormi, the Native† who visited England and returned to his Country with and under the protection of Captain Cook, who had left many things of valne, which had been carefully preserved by Mahine, and, among those stolen, were two Muskets and a Fowling piece, which were given Ormi by Lord Sandwich, and were well known and highly valued by all the Natives on the Island. Report on capture of escaped convicts and visit to Society islands.

At Huahiene, Ulietea and Bolabola, they had the same complaints as at Otahieta with respect to the conduct of persons that visited them in Whalers and other Vessels, who had on some occasions taken away the Natives by force for two or three Months, and then put them on Shore without remuneration.

I explained to them how much at variance such proceedings were with the Laws of England, and requested they would, on a recurrence of it, send the Names of the Offenders with all particulars to the Colonial Government of New South Wales, should it relate to Vessels belonging to that Colony, and to His Majesty's Government in England if to Vessels belonging to great Britain; they seemed to be satisfied with this, and observed that before they had laboured under the greatest difficulties from not knowing how to proceed, as the whole of the Offenders, even the Convicts, had always assumed the Air of Authority, and told them that they belonged to King George, who would severely punish any violence offered them.

At all these Islands they were desirous of hoisting the English Flag; but, as I had seen His Majesty's Commands on that subject, in the late Mr. Canning's Letter of the 23rd March, 1827, I told them what had been proposed at Otahiete; they then requested me to give them such Regulations as I thought ought to be observed by Visitors; but, this being out of my province, I told them they had better adopt among themselves such measures as appeared equitable to Strangers, and conducive to their own happiness and prosperity, and I would point out any thing that I thought objectionable, and transmit them to my Government, a Copy of which is herewith

* *Marginal note.*—Son of Mahine of Captain Cook's time, a very worthy Old Man.
† Note 209.

1829.
5 May.

Report on capture of escaped convicts and visit to Society islands.

enclosed; and, as a greater Security against Offences by His Majesty's Subjects, I left them Copies of the Act of Parliament, 57 Geo. 3, C. 53, for the Punishment of Offences committed at New Zealand, Otahiete and other places out of His Majesty's Dominions.

When at Ulietea, Tomatoa, the King gave me the Copy of a Correspondence, dated September, 1826, between Captain Jones of the United States' Ship Peacock, which was then sent to His Majesty's Secretary of State for the Colonies, as well as to the Government of New South Wales, but, as he had not received any aeknowledgement of it, he requested I would forward another Copy.

All the Chiefs of these Islands appear particularly careful to avoid any thing that would tend to lessen them in the esteem of Great Britain. At Otaha, after an Officer and Boat's crew had apprehended two of the Convicts, the rabble attempted to rescue them, in doing which the Officer and two of the Seamen were beaten and stripped nearly naked; at this time the Ship was at Sea (I having sent the Boat from Otahiete to the different Islands to the Westward to prevent their escaping previous to the arrival of the Ship); this outrage raised the greatest consternation to all the Chiefs and respectable people, who not only secured the Prisoners and delivered them over to the Officer, but took into Custody four of the Ringleaders, who attempted the rescue and kept them bound hand and foot until I arrived, when Tomatoa came on board with a request that I would shoot them; but, as such a punishment would have exceeded the offence, I desired they might be tried on Shore by their own Countrymen, and, if found Guilty, brought on board, which was done; and I gave them forty eight lashes each, and sent them about their business; three days afterwards I was at Otaha, when two of these delinquents most willingly and cheerfully came and assisted us in getting our Boat off, which had grounded, conceiving they had been most humanely dealt with.

After leaving the Society Islands, I proceeded to Tongataboo where it was supposed the remainder of the Convicts had endeavoured to reach in the Boat they had stolen from Mr. Barff, the Missionary at Huahiene.* On my arrival there, I found they had not been at that Island; but a Boat and Men answering to their description had arrived in extreme distress at the Hamoar or Navigators Islands, where two of them had been killed by the Natives; and, as there was no prospect of my finding the remainder who would have little chance of escaping with their lives from the desperate character of those they were among, I made the best of my way to this port, having taken on board at Tongataboo a variety of the most useful Plants and Seeds, which I have lodged in the public Gardens here, and purpose taking on to the Northern Settlements on my way to India; they consist principally of Bread Fruit, Yams, Sweet Potatoe, Benana, Shaddock, bee apple, Te Plant, and a very large description of Cocoa Nut, which produces the best coir for making Rope in the World.

At Tongataboo, I found the Natives most amicably disposed, and their intellectual superiority over those of the Society Islands is very remarkable, though they are very seldom visited by Europeans (we were the first English Ship of War that has been there since Captain Cook in the Resolution); most of the Chiefs and young Men could make themselves understood in English; and, when we asked them the names of the different Islands, many of them would take a Slate and write them down, some agreeing to a Letter

* Note 208.

1829.
5 May.

with Captain Cook's account: this they have learnt from the English Missionaries, three of whom are settled here, and who to my astonishment informed me, they had begun to teach the Natives writing only five months, and in that time they had completely exhausted their Stock of Tongo Literature,* and were now learning English of their own accord. In the Missionaries both here and at the Society Islands, I found a most respectable, loyal and intelligent class of Men, always ready to do their utmost in affording information or assistence; and the good effects of their Instruction is most apparent in the moral and intellectual condition of the Natives.

Report on capture of escaped convicts and visit to Society islands.

From the unusual Service I have been upon, I feel it necessary to enter into this detail of my proceedings, and shall now make good the defects of His Majesty's Sloop under my Command and return to India, via Torris Straits, touching at the Northern Settlements on my way. I enclose herewith a "states and condition," and

I have, &c.,

J. M. Laws, Commander.

P.S.—The project of removing the people† from Pitcairne's Island to Otahiete, referred to in my Letter to J. W. Croker, Esqe., of 11th March, 1829, may be easily effected by the Ship of War on the New South Wales Station with the assistance of one of the Colonial Vessels: the distance being only 600 Miles, one trip will convey the whole as the number does not exceed one hundred persons.

Proposed removal of Pitcairn islanders.

[Enclosure No. 3.]

Commander Laws to Secretary Croker.

His Majesty's Sloop Satellite.

Sir, Papeite Harbour, Otaheite, 11th March, 1829.

His Excellency General Darling having represented to me that he had received a letter from the Chief of the Society Islands informing him that a Vessel had arrived there, which had been piratically taken from New South Wales last year by Sixteen Convicts, which Convicts, after wrecking the said Vessel on Sir Charles Saunders Island, had distributed themselves among the Society Groupe, some at Otaheite, others at Emeo, Raiatea and Huaheine, and were committing the most violent acts of Robbery and even Murder among the Inhabitants, four of them having plundered one of the Principal Chiefs of nearly all he possessed including six Muskets, Powder, etc., and stolen a Boat from an English Missionary, and, when the Natives went unarmed to request them to return the property, they shot two, wounded six and made of.

Report on depredations by convicts at Society islands.

From this representation and at the request of His Excellency General Darling, after visiting New Zealand and shewing protection and countenance to the Trade there agreeably to my orders from Rear Admiral Gage, I came here, where I arrived on the 1st Instant, and, having taken those Prisoners that were at this Island, I shall tomorrow proceed to Ulietea, and from thence to Huaheine; and, as it is believed the four men, who killed and robbed the People of the latter Island, are now at Tongataboo, I shall touch at that Island on my return to Port Jackson, which will be as soon as possible.

Movements of H.M. sloop *Satellite*.

And I have further to inform you that the Chiefs of Otaheite requested me to attend a meeting of all the principal people of the Island, when they expressed their gratitude for the assurance, they had received, in a letter from the late Mr. Canning, dated 3rd March, 1827, of the continuance of the favourable opinion and protection of the British Nation; the same letter referred to a

Meeting of chiefs at Otaheite.

* Note 208. † Note 210.

1829. 5 May.

request they had made to His Majesty for permission to wear the British Flag; which request not being complied with, they now propose to establish the flag here represented* as their National one, hoping that such an Arrangement will be approved by His Majesty and their Friends the People of England.

National flag proposed by natives.

They then read and debated another document, received from Mr. Canning dated 3rd March, 1827, which requested Pomare, the King, and the Chiefs of Otaheite to receive and protect all the people† now on Pitcairns Island, giving them such land, protection and assistance as their Island abundantly affords.

Native approval of removal of Pitcairn islanders.

To this request, I am desired to state for the information of His Majesty's Government that they are most willing to comply, whenever it shall please His Majesty to cause the said Persons to be removed.

The assembly then proceeded to lay before me many complaints respecting the conduct of vicious characters, that are occasionally left among them by the South Sea Whalers and other Vessels trading to the Islands, who put at defiance all their laws and regulations, and requested me to recommend them some mode of removing this evil; in consequence of which, I have left them a Copy of the Acts of Parliament, passed in the 46th and 57th Geo. 3d, and explained to them that it was contrary to the laws of England that any Master of a Ship should turn ashore any part of his Crew out of the British Dominions, recommending their writing a Statement of such conduct to the British Government, should a recurrence take place and the offenders would be punished on their arrival in England.

Complaints *re* misconduct of white people.

The Missionaries and all the other respectable people residing here assured me that this was actually true, and that they suffered as much from such Individuals as the Natives, requesting me at the same time to submit to you, for the consideration of the Lords Commissioners of the Admiralty, the propriety of the "Man of War" on the New South Wales Station making an annual visit to these Islands, more particularly as there is now a considerable Trade between them and that Colony, which affords an opportunity for the Crown Prisoners to make their escape.

Proposed annual visit of man-of-war to islands.

I have, &c.,

Jn. M. Laws, Commander.

P.S.‡—The project of removing the People from Pitcairns Islands to Otaheta may be easily effected by the Ship of War on the New South Wales Station with the assistance of one of the Colonial Vessels the distance between the Islands being only 600 miles, one trip will convey the whole as the number does not exceed one hundred persons.

Method for removal of Pitcairn islanders.

Under Secretary Twiss to Governor Darling.§

11 May.

Sir, Downing Street, 11th May, 1829.

Recommendation in favour of C. Delohery.

I have the honor to transmit to you by the direction of Sir George Murray, the enclosed Memorandum which has been put into his hands by Admiral Palmer; and I am to request that you will be kind enough to give your countenance and protection to the person therein named, Mr. Cornelius Delohery, who is the bearer of this letter.

I am, &c.,

H. Twiss.

* Note 211. † Note 210. ‡ Note 212. § Note 3.

GOVERNOR DARLING TO SIR GEORGE MURRAY. 1829. 14 May.
(Despatch No. 55. per ship Vesper.)

Sir, Government House, 14th May, 1829.

I have the honor to acquaint you that I have directed that a copy of your Despatch, dated the 10th of September last, No. 30, respecting sentences passed on Prisoners by the Courts of Quarter Sessions, be communicated to the Chairman; and I shall not fail to attend to the Instructions contained in your Despatch. Criticism of sentences at quarter sessions.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 56. per ship Vesper; acknowledged by Sir George Murray, 9th December, 1829.)

Sir, Government House, 14 May, 1829.

I have the honor to acquaint you that, in obedience to the Instructions contained in your Despatch, dated the 1st of November last, No. 41 received on the 9th inst., that necessary arrangements are in progress for withdrawing the Settlement from Raffles Bay. Arrangements for withdrawal of settlement at Raffles bay.

As the Vessels to be employed in this Service must necessarily return at this season of the Year by the West Coast, I have, in consequence of a communication from Captain Freemantle of His Majesty's Ship Challenger, dated Cape of Good Hope, the 3rd of March last, informing me he had been directed to take possession of Swan River, desired that such Breeding Stock, Cattle, Sheep, etc., and Stores, as could be conveniently conveyed to that Settlement from Raffles Bay, should be carefully preserved and delivered over to the Officer having charge of it, conceiving that supplies of this nature will be important to the success of that Establishment. Live stock and stores to be landed at Swan river.

I beg, Sir, to add that, although I have not been honored with any Instructions respecting the Settlement at Swan River, I have been induced to suppose you would not disapprove of the steps I have taken to give effect to what I have understood indirectly to be the intentions of His Majesty's Government.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 57. per ship Vesper.)

Sir, Government House, 16th May, 1829. 16 May.

I have the honor to acquaint you, in reference to your Despatch dated the 14th of November last, No. 52, that, as the best means of carrying into effect the Instructions contained in that Precedence of puisne judges.

1829. 16 May. Despatch, I have furnished both Mr. Justice Stephen and Mr. Justice Dowling with a Copy of it.

Explanation of action adopted by R. Darling. As the communications, I have been directed to make to the Judges on this occasion, is at variance with the view taken of the subject in my letter* to Mr. Justice Dowling of the 24th of March, 1828, I am desirous of explaining that it then appeared to me, as it still does, that I was doing no more than I was bound to do in endeavouring to give effect to the orders I had received.

My Lord Goderich, the Secretary of State at the time, informed me† that The King had been pleased to appoint an additional Judge to take rank in the Supreme Court next to the Chief Justice, and that Mr. Dowling had been selected to fill that situation.

Considering it my duty to see His Majesty's Orders carried into effect, and having no doubt that the Government at Home had determined that the measure was expedient, I confess it did not appear to me that the option of declining the particular situation he was intended to fill, having accepted the appointment of Judge, was intended to be given to Mr. Dowling; and I was the more confirmed in this opinion, when I found that the Secretary of State had not consulted him on the subject previous to his leaving England, but had given the Order without reference to his inclinations or his wishes.

Having thus, Sir, recorded the reasons and grounds on which I acted, and being influenced by only one principle, I cannot but regret when my motives appear to be misunderstood or misconstrued. My Letters to Mr. Justice Dowling will shew that I was not actuated by any feeling but that of faithfully discharging my duty; and I have only to add that, so far from indulging in any feeling inconsistent with this principle, Mr. Dowling and myself have continued to the present moment on the most friendly terms.

I have, &c.,
Ra. Darling.

Governor Darling to Sir George Murray.

(Despatch No. 58, per ship Vesper.)

17 May. Sir, Government House, 17th May, 1829.

Transmission of letter from Revd. T. H. Scott. I have the honor to forward herewith Copy of a Letter addressed to me by Archdeacon Scott, transmitting a Letter in original from the Reverend Mr. Wilton to the Ecclesiastical Board, on the subject of the resignation of the Appointments, which he holds in this Colony, and of the misunderstanding generally which exists between the Archdeacon and himself.

* Note 213. † Note 214.

1829.
17 May.

I am unwilling, Sir, to trespass further on your time on this occasion, as I am not aware I can add in an useful degree to the information contained in my Despatch of the 30th of December last, marked "Separate."

I have, &c.,
Ra. Darling.

[Enclosure.]

Archdeacon Scott to Governor Darling.

Sydney, 3rd April, 1829.

Sir,

Transmission of letter from Revd. C. P. N. Wilton.

I have the honor to enclose to Your Excellency a very long letter dated 28th March addressed to the Ecclesiastical Board for the Colonial Church from the Revd. Charles Pleydell Neale Wilton, who requests it may be transmitted through Your Excellency to their Lordships.

Resignation of matron of orphan school.

The first part relates to the resignation of Mrs. Wilton as Matron of the Female Orphan School, and states in very pathetic language her ill state of health, tho' it is too well known she was for a great part of that time in the habit of receiving and going into company.

In my letter of June 27th, 1828, I had the honor of detailing the circumstances under which her resignation had been accepted, and at the same time I transmitted a copy of a letter, which I received from Mr. Wilton's Attorney on the subject.

As Your Excellency informed me on the 1st August last you should transmit them to the Secretary of State, I might rest satisfied with positively denying this Attorney's account of his interview with me, or that he wrote to me at my request. This contradiction can be supported by a Gentleman then present; but I must beg to point out that Mr. Wilton is, to say the least of it, somewhat inconsistent in his own account. Mr. W. states that, in 1827, I had given Mrs. Wilton leave of absence from September to Xmas, and that, as I had left the Colony for Van Diemen's Land, it became impossible to refer to me for farther indulgence. I did not embark until the 5th January. Mr. Wilton knew of my intention, and I was in constant communication with the Colony during my visitation to Van Diemen's Land.

Neglect of duties as matron.

But Mr. and Mrs. Wilton arrived in the preceeding April, and Mrs. Wilton did not on any occasion from that time, full nine months, attend at or take the slightest interest in the School. She repeatedly declared to me she could not bear the smell of the Children or the house, and would not nor does not reside in it; and, in my letter of the 14th Novr., extending a second time the leave to Xmas, I told Mr. Wilton I could not consent to have upwards of 120 children left without proper female attendance. I had, during this time, been obliged to appoint an Assistant Matron (and a storekeeper for Mr. Wilton was incapable of keeping the accounts).

Letter and visit from F. W. Unwin.

Mr. Wilton gives a Copy of his letter to me of the 30th June, and refers to Mr. Unwin's letter and visit to me, which he considers "*a mere matter of business involving a legal question*"; yet Your Excellency will perceive that, in his letter to their Lordships, he points out this very letter as being *unjustly* and perseveringly styled a Lawyer's letter.

Medical expenses incurred by Revd. C. P. N. Wilton.

As to the Medical expences he incurred, that was his own fault; he preferred an ignorant practitioner, who cheated his Creditors and fled the Colony, to the Medical Officer of the Establishment,

1829. 17 May.

regularly bred a Surgeon in the Navy and Colonial Assistant Surgeon; but, though complaining of this unnecessary expence and general distress, and at the same time affecting to despise the idea of soliciting the half year's salary merely on account of the money, yet his general habits are known to be very extravagant and far beyond his means.

Extravagance of Revd. C. P. N. Wilton.

In the other part of the letter to their Lordships, Mr. Wilton retracts his resignation as Chaplain, which I announced to Your Excellency in my letter* of the 30th December last.

Withdrawal of resignation as chaplain.

The circumstances attending that business are well known to your Excellency. They are at direct variance with Mr. Wilton's statement.

When the affairs of the New South Wales Bank got into confusion, and the Directors applied to Your Excellency for assistance, it will be in Your Excellency's recollection that, in the Examination before the Executive Council, it was discovered amongst other matters these Gentlemen had imposed on the public by stating they had augmented their capital £10 or £12,000 by creating additional shares to that amount. These shares were found to consist not of money actually paid down, but of fictitious bills drawn by the proprietors of these shares on any person, who would accept them for their accommodation, and probably, as Mr. Wilton observes, without having any interest in the transaction, which made the matter so much the worse for the public.

Increase of share capital by bank of N.S.W.

These Bills were stated to be renewable every three months for a year, at which time they were to be paid off. To two of them, amounting together to the sum of about £1,100 or thereabouts, Your Excellency will recollect the Revd. Mr. Wilton had accepted, he then being, as he avows in his letter, in distressed circumstances, which bills were drawn on him by a Mr. Unwin, Mr. Wilton's attorney, the writer of the Lawyer's letter to me before allnded to. Of the fatal consequences to the Public this fraud had caused, Your Excellency is too fully aware for me to dwell on, and it was with no small surprize Your Excellency and the Members of the Executive Council saw the support such a fraud received from the assistance of a Chaplain of the Established Church, whose duty it was to keep aloof from such practices, but who nnblushingly avows he "merely lent his name to the transaction."

Bills drawn by F. W. Unwin on Revd. C. P. N. Wilton.

I sent for Mr. Wilton and stated my impressions, but not in the language he has represented. I have had so frequent occasion to find him given to this species of misrepresentation that I have confined myself to written communications; and therefore I shall not trouble Your Excellency with any detail, farther than that I told him the nature of the transaction was such that, if stated officially to the Government or the Ecclesiastical Board, the consequences to him would be injurious. I did not wish to push matters to the extreme point, and I gave him his option to send in his resignation, or to have the whole affair stated to the Secretary of State.

Disapproval of action of Revd. C. P. N. Wilton.

After some time, he assented to the former; but *it is not true that the Revd. Mr. Marsden interferred or called on me* at that time. My Registrar did call on me one morning, and said he came at Mr. Marsden's request to ask me to drop the matter; but, on my stating to him the whole of the circumstances, he declined saying anything more, for he was too well acquainted with the nature of the transaction to which Mr. Wilton had lent his name. Many of the principal Merchants and others spoke to me on the subject, and asked

Compulsory resignation as chaplain.

* Note 215.

me if such a practice in a Clergyman especially in this Colony was tolerated by me and in connection with such a person as Mr. Unwin. 1829. 17 May.

It is proper that the character of this Mr. Unwin should be stated that His Majesty's Government and their Lordship's may be informed of Mr. Wilton's intimate friend and constant companion, and who is a visitor at the Female Orphan School much too often. Discarded by his family, Mr. Unwin came out a Steerage Passenger in the same Ship with Mr. Wilton, with sealed letters of introduction very far from a recommendatory nature. He was introduced to me by the Revd. Frederick Wilkinson, a Chaplain of the Establishment (whose conduct* has been long since laid before His Majesty's Government) and brother in law to Mr. Wilton. These Gentlemen then represented him as a highly respectable character, and, through such recommendation, he was appointed pro tempore to make up the accounts of the Trustees of the Church and School Lands, in which situation he remained six weeks; and, after writing the most insulting and offensive letters, he made a charge for his time at the rate of £700 per annum, and threatened the corporation with a lawsuit if that sum was not paid. Career of F. W. Unwin.

This is the Mr. Unwin, who applied to Your Excellency for Land, transmitting the Reverend Mr. Wilton's certificate, which stated that he knew him to be possessed of £2,000, and this written a few months after his arrival in the Colony pennyless, to which certificate Your Excellency called my attention by a letter, dated 11th June last, from the Colonial Secretary.

Mr. Unwin's practice is to enter the Jail and procure from the distressed Debtors and insolvents power to settle their business, and thus get sums of money into his hands, which he uses to his own advantage; with this he speculates in land, houses and cattle, and is the associate of the most worthless persons in the Colony; and it is with this person the Reverend Mr. Wilton is so intimate, and to whose house he constantly resorts, when in Sydney, and with whom he has thought proper to enter into such fraudulent transactions as that under consideration. Intimacy of Revd. C. P. N. Wilton with F. W. Unwin.

With regard to the Revd. Gentleman's assertion "that this accusation comes with a bad grace from the Archdeacon, who has himself been engaged *in the same sort of transactions*," I feel so thoroughly indifferent on the subject, as it can be so easily proved, if the fact be so, that I might feel content to let it rest on the authority of the Revd. Mr. Wilton, and his friend and legal adviser Mr. Unwin, if it were not necessary that His Majesty's Government may be apprized of the Character of these two Gentlemen. Groundless assertions by Revd. C. P. N. Wilton.

I scarcely think his conclusion worth replying to. I am yet to learn what are his "strict Church principles," for I am sure he has not exhibited them in this Colony; and, as to the party whose views I have favoured, I really know of none; but it would be more easy for me to point out the injury he has done to the Church by his conduct and associations, by his language and negligence as Secretary to the Society for Promoting Christian Knowledge than any favoritism of mine to Party views in Religion. Injury to church by conduct of Revd. C. P. N. Wilton.

In his clerical duties, I have overlooked irregularities, trusting that he would amend them by the occasional advice I have given him in consideration towards the highly respected and Reverend Gentlemen, from whom he brought letters to me of recommendation; one instance may perhaps suffice. I had directed him to officiate in a building where, for want of a better, the Convicts on Irregularities overlooked.

* Note 216.

1829. 17 May.

Statements by Revd. C.P.N. Wilton.

the road assembled every Sunday for Divine Service; this in an official communication he stated to be a "Madhouse"; there were other remarks too flippant and improper to notice. His unbecoming language in a Periodical Work* he edited about "good fat livings"; his incorrect and unbecoming reflections on the Church Establishment for not attending to the Civilization of the Black Natives, as well as upon the School Establishment, have not added to his fame or to his veracity.

Management of orphan school.

As to his qualifications to conduct the School, or to have any charge over the accounts, I have to state that the former has been entirely arranged and superintended by Mrs. Ellis, whom I appointed Matron by virtue of the King's charter, which vests these appointments in the visitor; but the latter have been kept by a Storekeeper and not by Mr. Wilton, and that he has been in the habit of expending very large sums without authority, and for which he has been reprimanded by no less than six resolutions of the Trustees.

Incapacity of Revd. C.P.N. Wilton.

I might indeed, Sir, have replied and truly replied in stronger terms to the letter of the Reverend Mr. Wilton; he is a young man of little Judgment, of less experience and of no conduct; and, tho' I once stated to him I had no fault to find with his clerical duties, I then knew not of his grave offences; too late I find him to be quite unfit for either station he fills *in this Colony* whatever he may be in England; nor will he ever receive from my hand his benedicisset.

I have, &c.,

T. H. Scott.

[Sub-enclosure.]

[*This lengthy letter will be found in a volume in series II.*]

Governor Darling to Sir George Murray.

(Despatch No. 59, per ship Vesper; acknowledged by Sir George Murray, 9th December, 1829.)

18 May.

Sir, Government House, 18th May, 1829.

Transmission of report of board and minute.

I do myself the honor to submit for your consideration Copy of the Proceedings of a Board, appointed to ascertain the Amount of Fees received by the Registrars and other Persons belonging to the Courts of Requests, together with a Copy of a Minute fixing the Salaries to be paid to the respective Individuals in lieu of Fees and allowances, agreeably to the principle which has been established for the remuneration of all Persons employed by this Government.

I have, &c.,

Ra. Darling.

[Enclosure No. 1.]

Report by board *re* fees and fixed salaries in courts of request and district courts.

Report of a Board, appointed by His Excellency the Governor to ascertain what Amount of Fees has been received by the Registrars of the Courts of Requests at Sydney, and at the several District Courts; And to consider and report what Sum would be proper to Assign, as Fixed Salaries to the several Registrars in lieu of Fees.

Sydney, 22nd September, 1828.

1st. The Board, having assembled for the consideration of the several points submitted to them, have the honor to report that they

* Note 217.

have examined the Returns, transmitted for their guidance with the Colonial Secretary's Letter to the Auditor of Colonial Accounts, A 28/315 dated 16th of May last, as also some additional returns with which they were furnished by the Commissioner of the Court of Requests. From these Returns, which are certified on the Oaths of the Registrars, it appears that the Fees collected in the Courts of Requests in Sydney and in the different Districts from their Establishment in September, 1824, till 30th June, 1828, have amounted to the Sums stated in the following Table:— 1829. 18 May.

TABLE of Fees collected in the Courts of Requests. Return of fees collected in courts of requests.

Sydney Court.	Sept. to 31st Dec., 1824.	1825.	1826.	1827.	1st Jan. to 30th June, 1828.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Registrar's Fees, Appropriated to the payment of a Clerk and other contingent expenses	.....	.....	103 17 0	143 10 4½	85 17 6
Do as the Registrar's personal Emoluments.....	52 10 6	186 12 10½	206 3 1½	335 15 1½	227 9 0
Messenger's Fees	24 5 0	71 17 6	171 1 1½	253 11 6	169 18 0
Total Amt. of Fees collected	76 15 6	258 10 4½	481 1 3	732 17 0	483 4 6
N.B.—There are no returns of the Expenses for the Years '24 and 1825.					
Parramatta Court.					
Registrar's Fees, Appropriated to the payment of a Clerk and other contingent expenses	.....	.....	.....	5 17 3	11 2 9
Do as the Registrar's personal Emoluments.....	3 14 1½	45 11 6¾	51 10 1½	55 16 9	46 6 3
Messenger's Fees	1 4 8½	15 3 10¼	23 7 10½	26 13 0	26 16 0
Total Amt. of Fees collected	4 18 10	60 15 5	74 18 0	88 7 0	84 5 0
Liverpool and Campbell Town Court.					
Registrar's Fees, Appropriated to the payment of a Clerk and other contingent expenses	.....	.....	.....	.....	12 0 4½
Do as the Registrar's personal Emoluments.....	3 1 6	43 0 0	48 10 1½	94 18 6	60 6 7½
Messenger's Fees	1 0 6	18 18 6	21 19 0	36 12 0	31 7 6
Total Amt. of Fees collected	4 2 0	61 18 6	70 9 1½	131 10 6	103 14 6
Windsor Court.					
Registrar's Fees, Appropriated to the payment of a Clerk and other contingent expenses	.....	.....	.....	11 14 9	16 9 9
Do as the Registrar's personal Emoluments.....	8 2 6	108 3 0	151 16 9	144 9 3	85 4 9
Messenger's Fees	2 16 6	38 12 0	59 13 7½	77 18 0	46 16 6
Total Amt. of Fees collected	10 19 0	146 15 0	211 0 4½	234 2 0	148 11 0

SYDNEY.

2nd. From the above Statement, it appears that the Average Net Income of the Registrar of the Sydney Court, exclusive of the

1829. 18 May.

broken period of 1824, and assuming that the Amount of Fees of the half year, ending on the 31st December next, will be equal to that of the half year ended on the 30th of June last, has amounted to £295 17s. 3d. per annum; the lowest Amount received by him having been in the year 1825, £186 12s. 10½d., and the highest in the first six months of 1828 at the rate of £454 18s.

Average net income of registrar at Sydney.

Expenditure on sundries.

3rd. The Expenses, incurred by the occasional employment of a Clerk, by the purchase of Stationary, by Advertisements, Printing and other Contingent Charges, have hitherto been paid out of the Total amount of Fees received by the Registrar; but the Messenger has been allowed to appropriate all the Fees collected under his Name.

Fixed salary proposed for registrar.

4. The Board having, in connection with the abovementioned circumstances, taken into consideration the nature of the Office of Registrar to the Court of Requests in Sydney; and having more particularly adverted to the responsibility attached to it from the Amount of Money belonging to Suitors in that Court, which passes through his hands; and for the due administration of which he is obliged to give Security, himself in £1,000, and two Sureties in £500 each; having also viewed the Situation in reference to other Situations of an analogous description, they have the honor to state as their opinion that a Fixed Salary of £320 per Annum, in lieu of all Fees and Advantages, would be a fair and liberal Remuneration to the Registrar of the Court of Requests, and would place the Office on such a scale of respectability as seems due to its Claims upon the confidence of the Public.

Proposed appointment of clerk.

5. Considering the progressive encrease of Business and the importance of its being executed with due despatch, the Board are further of opinion that an efficient and permanent Clerk should be appointed at the Public expense to assist the Registrar; that the latter should be relieved from all expenses for Stationary and other disbursements, and that his Office should be placed, in this respect, on the same footing as other Offices of the Government.

6. On the question of the responsibility which attaches to the Messenger of the Court of Requests in Sydney, the Board have the honor to observe that, though the executions entrusted to him are numerous, the Sums for which they are severally issued are not considerable, and that it is his duty to Account every Morning with the Registrar for the Money received during the previous day; they are therefore of Opinion that, in lieu of receiving the Fees which have hitherto been collected by him to an Amount which certainly proved an enormous Remuneration for a person in his Station, he should be allowed the stated Salary of £120 per Annum. In the case, however, of the person at present holding the Situation, as he has some other Employments, they would recommend that the Salary should be only £100; but that he should be allowed to retain in addition thereto the Salary of £25, which he receives as Cryer of the Court; but that he should be prohibited on pain of dismissal from profiting in any other form by his office.

Salary proposed for messenger.

7. Under this Arrangement, the Messenger would of course be relieved from all expenses; and, should it be considered necessary for the due despatch of Business that he should have an occasional Assistant, the Board are of opinion that the employment of such a person would be much better entrusted to the Registrar than to him.

1829. 18 May.

By this means also, the Registrar would obtain a control over the practice of placing persons in temporary possession of Goods distrained, and the temptation would be removed to an abuse of the practice by the Messenger, to whom the Commissioner is of opinion, it has been a source of Emolument not accounted for under the denomination of Fees. Control of registrar.

District Courts.

8. Taking into consideration the circumstance that the persons employed as Registrars and Bailiffs to the District Courts hold other Situations under the Government, The Board are of Opinion that, to the Registrars of the Courts of Parramatta and Campbell Town, a Fixed Annual Salary of £80 would be a fair compensation for their Services; but that, in consideration of the greater extent of Business at Windsor, the Salary to the Registrar of that Court should be £100 per Annum. From the same circumstance, they conceive that the Bailiff to that Court should receive £60, but that £50 per Annum would be a sufficient Salary for each of the other two. Salaries proposed for registrars and bailiffs of district courts.

9. With respect to the duties of the Bailiffs, it appears to the Board that the Bailiff at Sydney should be considered responsible for serving the Summonses within a Circuit of ten Miles, and at Windsor, Parramatta and Campbell Town, within a Circuit of twenty Miles from their respective Courts; And, in case of its being necessary to serve a Summons beyond these limits, that it should be transmitted to be served by the District Constable, whose Station might be nearest to the Residence of the Defendant. For this additional duty, the District Constable might be allowed a reasonable compensation, to be regulated by the Commissioner and settled Quarterly as a Contingent expense; but it would be necessary to make them answerable for its due discharge. Issue of summonses.

10. In a pecuniary point of view, the probable result of the Arrangements above suggested would be as follows:— Financial statement *re* proposals.

Aggregate of Registrars and Bailiffs Fees, collected annually in the several Courts, say		£1,600
Salary of the Registrar of the Sydney Court.	£320	
do of a permanent Clerk to do	120	
Salaries of the Registrars of the District Courts	260	
Do of the several Bailiffs	260	
Occasional Remuneration to District Constables acting as Bailiffs, say	100	
Contingent Expenses, say	200	1,260
		£340

Leaving the sum of £340 to be carried to the credit of the Public Revenue.

11. In the above Statement the Charge at present incurred of a Salary to the Constable, attending the Court in Sydney, is not included, the Commissioner having informed the Board that he can make arrangements for dispensing with his Services. Constable at court in Sydney.

William Foster.
William Lithgow.
James Busby.

1829.
18 May.

[Enclosure No. 2.]

GOVERNOR DARLING TO COLONIAL SECRETARY MACLEAY.

Minute No. 39.

7th April, 1829.

Fixed salaries for registrars and officials in courts of request.

THE Board, appointed to ascertain the Amount of the Fees, which have been received by the several Registrars and other persons employed in the Courts of Requests, having given in a Report of their Proceedings: Let it be notified to the Commissioner of the said Courts that the following Salaries have been Fixed for the several Registrars, etc., to be paid to them in lieu of all Fees, and they must distinctly understand that they are not to derive any other Emolument whatever from their said Offices respectively, and that they will be held strictly responsible, not only carefully to collect all fees duly accruing to their respective Offices, but faithfully to account for the same to the Public, on pain of dismissal from their Offices.

		per annum. £	s.	d.
Sydney Court	Registrar	320	0	0
	Permanent Clerk ..	120	0	0
	Bailiff or Messenger	100	0	0
	Cryer	25	0	0
Windsor Court	Registrar	100	0	0
	Bailiff	60	0	0
Parramatta do ..	Registrar	80	0	0
	Bailiff	50	0	0
Campbell Town Court	Registrar	80	0	0
	Bailiff	50	0	0

Issue of summonses.

The Bailiff at Sydney will be considered responsible for issuing Summonses within a Circuit of 10 Miles of the Town; The Bailiffs at Windsor, Parramatta, and Campbell Town within a Circuit of 20 Miles.

In case of its being necessary to issue Summonses beyond these limits, the District Constables may be employed, who are to be allowed a reasonable compensation for their trouble by the Commissioner, who will be at liberty to charge the Amount in a contingent account at the end of the Quarter, the Form and manner of which will be pointed out by the Auditor.

Removal of constable at court in Sydney.

The Constable, attending the Court of Requests in Sydney, to be discontinued, the Commissioner having signified that his Services can be dispensed with.

Let it be notified that the above arrangement is to take effect from the commencement of the present Quarter.

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Vesper.)

Sir, Government House, 18th May, 1829.

Despatch acknowledged.

I have the honor to acknowledge the receipt of Your Letter of the 15th of November last, transmitting the Copy of a Letter from Mr. George Harper and of your reply thereto, and desiring me to report on the Case for the information of the Secretary of State.

1829. 18 May.

I have in consequence the honor to acquaint you that, the Principal Superintendent of Police having received information of certain mal-practices in the conduct of the Store, in which Spirits and other Dutiable articles are lodged, he was desired to investigate the matter, the result of which was that Mr. Harper, who was a Clerk in the Commissariat and had the immediate charge of the Store, was placed in arrest.

Arrest of G. Harper.

A Board was then appointed to ascertain the state of the "Bonded Store," a Copy of whose Report I beg to enclose herewith, without troubling you however, with the Statements, etc., to which it refers, the Report containing in itself every information necessary to a proper understanding of the Case.

Board of inspection *re* bonded store.

I have also the honor to transmit Copies of three Letters containing the opinions of the Attorney and Solicitor General on the Case.

Legal opinions.

In consequence of these opinions, the Attorney General filed a Criminal Information against Mr. Harper, who was tried on the 29th of July, 1826, and a Verdict was returned of "Not Guilty."

Trial of G. Harper.

Mr. Harper some time after applied for two Years' Leave to return to England, when he was informed his appointment was not considered of that nature to permit of his receiving Pay when not performing his Duty.

Application for leave of absence.

He in consequence tendered his resignation, which was accepted on the 31st of August, 1826.

Resignation of G. Harper.

I have no desire to speak of Mr. Harper's conduct in terms which might impeach his integrity. He may perhaps find some excuse for his proceedings in the laxity, which prevailed throughout the Public Departments; and this will furnish some proof of the obnoxious nature of the Duties which this Government has had to discharge in reforming the irregularities and the abuses which existed, as the establishing of System and Order must always be inconvenient and unpleasant to Individuals who have not been subject to Control.

Irregularities in public departments.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

REPORT BY BOARD.

Sir, Sydney, 15th May, 1826.

We have the honor to report that, in pursuance of the Instructions conveyed by your letter of 3rd April last, enclosing a Minute No. 72 of His Excellency the Governor, directing us "to investigate the state of the Bonded Store, and to ascertain the quantity of Spirits which ought to be in Store, and the quantity actually forthcoming, with reference to the late Proceedings in the case of Mr. Harper." We proceeded on the 4th of the same month to take an account of all the Spirits deposited in the Bonded Stores, as a Security for the payment of the duties thereon.

Report by board on inspection of bonded stores.

1829.
18 May.

Report by board on inspection of bonded stores.

These Spirits we found lodged partly in the ground Floor of the large Commissariat Store, and partly in the Stores hired from Messrs. Campbell, Macqueen and Underwood. In taking the account of the same, we examined every cask and Case separately, and, when they appeared full, took down the number and contents as marked on the Casks, having satisfied ourselves that the Contents, so marked on the Casks, were correct or nearly so. Such Casks as appeared to be partially emptied, we had subsequently guaged on the 5th April.

In this manner, we ascertained that the total quantity of Spirits in Store on the 4th April amounted to 49,864½ Gallons, a Return of which, specifying the particulars and Contents of each Cask and Case, we herewith enclose marked No. 1.

We then proceeded to compare the several casks of Spirits, contained in this Return, with a Book kept by Mr. Harper, purporting to exhibit an account of the Spirits in Store at the commencement of the present year, and of the Entries and Deliveries of the same from that date till the 4th April.

From this comparison, it appeared that the following Casks of Spirits ought to have been in Store at that date, which we did not find on examination of the Stores:—

	Gallons.
1 Cask of Rum imported per the "Triton" and Bonded by Mr. James Chisholm on 31st October, 1825, No. 109; contents	118
1 ditto imported per "Lalla Rookh," Bonded by Cooper and Levey on 8th July, 1825, No. 88	105
1 ditto ditto imported per "Columbia" and Bonded by Icely and Hindson on 17th January, 1826, No. 18	109
1 ditto of Brandy, imported per "Phœnix," and Bonded by R. Campbell, Senr., on the 17th March, 1825, No. 27	137

and that the following Casks and quantities of Spirits were in Store on the same day, which were not found entered in the Bonded Store Book:—

	Gallons.
1 Cask Rum per Security, No. 100 ullage	44
2 ditto saved from the Wreck of the "Royal Charlotte," damaged by Salt Water	50
1 ditto Bengal Rum per "Action," No. 10 ullage	14
1 ditto Gin per "Hugh Crawford," P. McIntyre, No. 4	127
10 Cases Brandy, marked Titus, 2 gns. each	20

All the Colonial Spirits amounting as per Return to 4,314, exclusively of the Casks entirely missing, though appearing from the Book kept by Mr. Harper to be in Store, and of the Casks found in Store, though not entered, we found the Contents of several of the Casks to differ from the contents of the same Casks, as entered in the said Book, as well as, in some cases, from the quantities they were stated to contain in the Proprietor's Returns.

The Statement, marked No. 2 herewith enclosed, contains a specification of the difference in the Contents of the Casks alluded to; from which it will be perceived that the actual contents sometimes exceeded, and sometimes fell short, of the quantities they are stated to contain in the Store Book.

1829. 18 May.

Report by board on inspection of bonded stores.

That they should fall short of the original quantities, at which they were entered, may no doubt in part be accounted for from loss by keeping, or from part being applied to fill up entire casks; but their containing more must have arisen from inaccuracy, which it will be necessary to correct to avoid the loss of duty, which might arise by charging it on the quantity as entered, instead of upon the actual contents.

Having compared the quantities of Spirits actually in Store, with those which ought to have been in Store, according to the accounts kept by Mr. Harper, we next proceeded to compare the former with the Returns of the Proprietors of Spirits in Bond, with which we had been furnished, in pursuance of application made to the Parties by His Excellency's directions.

It is to be regretted that, partly from some of the Proprietors being absent, and partly from others not being known or not having complied with the request addressed to them, Returns have not been received from all the Proprietors; and that, in consequence, it cannot be fully ascertained whether all the Spirits, which may ultimately be claimed, are forthcoming. We, however, made up an Abstract of all the Returns received, which we herewith enclose marked No. 3, and, after comparing it with the Returns of Spirits found in Store, we find that the following Casks claimed, by such of the Proprietors as furnished Returns, were missing on the day we took an account of the Stores:—

	Gallons.
1 Cask of Rum included in Mr. James Chisholm's Return as received ex Triton, No. 109, contents ..	118
1 do do No. 297, ullage	19
1 do of Brandy included in the Return of R. Campbell, Senr., as received per "Phœnix," No. 27, containing	137
1 do do per "Lang," 2nd ⟨F⟩ 3, contents	130
also 1 Case Gin per "Ann," Bonded by Raine and Ramsey	6

The three first Casks, it will be seen, are also found missing on comparing the Casks actually in Store with those which ought to have remained, according to Mr. Harper's Book; the last mentioned cask was neither found in Store nor entered as having been received.

We find also that Mr. R. Campbell, Junr., claims, by his Return, a Cask of Rum ex "Denmark Hill," No. 103, contents 116 Gallons, which is not in Store; but as we find No. 102 by the same ship, containing an Ullage of two gallons, which is not claimed by the Proprietor, there is probably a clerical error in his Return; though admitting this to be the case in regard to the number of the Cask, the great difference between the actual and the stated Contents of the Cask in question seems still to require explanation.

Though, from the course of the investigation above described, there appears to be several Casks missing, and in others a considerable difference between their actual contents and those at which they are stated in the Store Book, as well as in the Proprietors' Returns, we should hesitate, without more positive evidence and without the explanations which the Party concerned might have to offer, in giving it as our opinion that either the Casks or Spirits missing have been fraudulently withdrawn or embezzled. It is not improbable that the contents of the Casks missing may have been

1829. 18 May.

Report by board on inspection of bonded stores.

emptied to fill up other Casks, and that, when empty, they have been removed solely to prevent incumberance in the Store; and that the ascertained differences in the contents of the other Casks may have arisen, partly from the same cause, and partly from the natural loss on keeping Spirits, added to the abstracting from them the authorised per Centage for guaging.

But, though we would by no means insinuate that we have been able to discover any direct or positive proof of fraud or embezzlement, we do not feel warranted in affirming that irregularities could not have been practised without having been exposed and brought to light by the means taken to detect them.

It will readily occur that the correctness of the result of the comparison between the remains, as ascertained from the Store Book and by actual inspection, must depend on the accuracy with which the Book has been kept; and, though we have little doubt of this accuracy, wherever both the actual Remains and the Returns of the Proprietors concur in establishing it, yet it is to be remarked that Returns have not been received from several of the Proprietors, and that we do not possess the means of establishing whether the discrepancies, which appear to exist betwixt the result of the accounts in the Store Book, the Remains ascertained to be in Store, and the Returns of the Proprietors, have been occasioned by fraudulent irregularity or simply by clerical omission and inaccuracy.

Indeed from the present practice and the actual means of check, we conceive it would be difficult to bring home a charge of fraud, unless of very considerable extent, did it actually exist. From the Returns, it would appear that some of the Proprietors even are unable to state the exact quantities of Spirits which they have in Deposit; and, if our information is correct, the confidence reposed in the Storekeeper has even been carried so far as to allow him to sell and to effect a transfer of Spirits from one Proprietor to another.

The permitting any Spirits to be removed without a Permit (as in the case with those allowed as per Centage for Guaging) holds out a temptation and may afford a cover to remove without payment of duty more than the regulated quantity; and this, added to the difficulty of ascertaining exactly the natural loss on Spirits, serves as a ready means of accounting for apparent deficiencies unless unreasonably excessive.

Reforms proposed in management of bonded stores.

It appears in every point of view desirable that some more effectual means than those now in operation for checking the accounts of the Bonded Store should be established; and it may not be considered irrelevant to the subject of our Report to throw out such suggestions, as have occurred to us, as in part calculated for attaining this object. With this view we would propose:

1st. That the Naval Officer should enter in the Books of his Office a Statement of all Spirits and Tobacco in Deposit for the payment of Duties, and of all such as may thereafter be received, specifying the particulars and contents of each Cask and Package; and that, as Permits are granted for their removal, he should mark, opposite each Cask or Package, the number of the Permit on which it has been removed. By this means, he would be enabled, at any time, to furnish a Statement of all the Casks and Packages, which ought to remain in Bond, as a Check on the accounts of the Officer in charge of the Bonded Stores.

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18 May.

2nd. That no Spirits or Tobacco whatever should be removed from the Bonded Stores, excepting under the Permit of the Naval Officer; and that, to do away any cause for an exception to this rule, the Spirits for the use of the Troops should be lodged in a Store, distinct from those of private Individuals in Bond.

Reforms proposed in management of bonded stores.

3rd. That, instead of marking the Casks with chalk as at present, which admits of the Marks and numbers being easily altered, they should be marked and numbered on being received into Store with Blue or other paint in regular Series; and these marks and numbers specified on the Certificates granted to the Proprietors.

We beg further to Report that we proceeded, on the 8th April, to take an account of the Tobacco in the Bonded Stores. In doing so, we took the number of the Skins and Baskets and ascertained the average gross weight of the latter; we also took an account of the numbers and marked contents of the several kegs and Casks; but we did not consider it advisable to open any of these for the purpose of ascertaining the net weight without the sanction of the Proprietors.

Tobacco in bonded stores.

A Return of the Tobacco, which we in this manner found to be in Store, is herewith enclosed marked No. 4.

On proceeding to compare the quantities found to be in Store, with the Remains which ought to be forthcoming, according to the Bonded Store Book, we found the latter so incomplete and imperfect, as not to admit of any satisfactory comparison being made; a defect which we strongly recommend should in future be supplied by opening a regular Book, which should clearly account for all the Tobacco received, issued and remaining.

The Returns made to us by the Proprietors of the Tobacco held by each, an Abstract of which is annexed to that of the Returns of Spirits so far as received, we found to correspond with the actual quantities ascertained by us in taking an account of the same; but, owing to similar causes which prevented us being furnished with Returns from all the Proprietors of Spirits, Returns have not been received from several of the Holders of Tobacco; and, in consequence, we have not had the means of ascertaining whether the whole of the Tobacco, which may ultimately be claimed by the proprietors of the same, is forthcoming. We have, &c.,

Wm. Lithgow, Audr. of Col. Accts.
Jno. Nicholson, Master Attendant.
S. Ryrie, D.A.C.G.

[Enclosure No. 2.]

Attorney-General Bannister to Governor Darling.

Sir, Sydney, 1st May, 1826.

Opinion *re* charge of grand larceny against G. Harper.

I have considered the enclosed depositions and letter relative to a charge against Mr. Harper, and I am of opinion that the case is one of common Grand Larceny under two circumstances.

If the property of Mr. Chisholm can be identified to have been, *either as to the barrel* or as to the contents of the barrel, sent without his consent to Mr. Macleod or Mr. Roberts in the way implied, it was a theft by Mr. Harper.

If also the per Centage was not delivered by the Commissary General to Mr. Harper for distribution or disposal in the way

1829. 18 May. mentioned in the deposition, a theft was committed on the property of the Commissary General.

Opinion *re* charge of grand larceny against G. Harper. I think the questions as to the legality of demanding this per Centage Spirits cannot arise in the prosecution of this case.

It appears to me to be one more proper for the Quarter Sessions than the Supreme Court. I have, &c.,

S. Bannister.

[Enclosure No. 3.]

Attorney-General Bannister to Governor Darling.

Sir, Sydney, 20th June, 1826.

I have again considered the case against George Harper in reference to my opinion of the 1st day of May and to the accompanying observations and papers.

The embezzlement Statutes do not seem to me to apply to the case; but, as one of common Grand Larceny, I still continue to think it may properly be sent to a Jury.

The report of the Gentlemen, who examined the subject after the 1st day of May, and on whose report I had occasion to write an opinion, threw some doubt on the tracing of the property, and I think that an acquittal on a charge of theft is not improbable.

Second opinion proposed. In so involved a matter, I take the liberty of requesting that the opinion of the Solicitor General, now returned to the duties of an advocate, may be taken on all the papers on which this and my two former opinions have been given. I have, &c.,

S. Bannister.

[Enclosure No. 4.]

Extract of a Letter from John Stephen, Esqe., Solicitor General, dated 1st July, 1826.

Opinion *re* charge of larceny against G. Harper. "I return you as requested the Papers relative to Harper's sale, as he calls it, of the Centage Spirits which, from all the facts stated, I consider to be a case of Larceny.

"The Attorney General will of course exercise his Discretion whether to bring it before the Supreme Court or of Quarter Sessions; as a general principle, I should hold it the better course to bring all cases attended with Legal difficulty before the former Tribunal; but, if in this case the offender should imagine he would have a fairer trial before a Jury constituted as in England, I see no reason why it should not go before the Sessions."

Governor Darling to Sir George Murray.

(Despatch No. 60, per ship Vesper; acknowledged by Sir George Murray, 13th November, 1829.)

19 May. Sir, Government House, 19th May, 1829.

Transmission of application for land grant from R. Jones. I have the honor to forward to you, at the desire of Mr. Jones of Sydney, the accompanying Letter which he has addressed to you, applying for a Grant of Land, on the ground of Services rendered the Colony; and I have much pleasure in recommending this Gentleman to your notice as in every respect meriting the favorable consideration of His Majesty's Government.

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Mr. Jones is a Merchant of the first respectability and consequence in the Colony, and his claim of having established the Whale Fishery here is undoubted, which he is now carrying on to a considerable extent and is rapidly encreasing.

Testimony in favour of R. Jones.

His Letter states the large sums he has expended in the purchase of Sheep of the Saxon Breed; and shews that, both from his exertions and his means, he actually has benefitted and is still capable of further benefitting the Colony.

Mr. Jones holds at present only 6,000 acres of Land, 4,000 of which he purchased during the Administration of my immediate Predecessor. I believe he is desirous of obtaining a Grant equal in extent to Mr. McQueen's and other Gentlemen, who have been recently authorised to receive Land, and I should presume there can be no objection, having actually expended a very large Sum of Money in extending his Grant of 2,000 acres to the amount which other considerable Capitalists have been authorised to receive.

Land held by R. Jones.

I have, &c.,
Ra. Darling.

[Enclosure.]

Mr. R. Jones to Sir George Murray.

Sir, Sydney, New South Wales, 18th May, 1829.

In addressing you on a subject that is of considerable importance to me, I trust I shall not unnecessarily occupy your time and that I shall satisfactorily shew I have claim to the indulgence I ask, and which the local Government of this Colony have not the power of granting me, namely, an additional Grant of Land; and, without further comment, I will state the Grounds on which I found my claim.

Request from R. Jones for additional land grant.

It is admitted, by every one connected with this Colony, that Wool will be one of its staple commodities; and, being in England in the years 1823 and 1824, in the latter year I imported from the choisest Flocks in Saxony Twenty Rams and One Hundred Ewes of the purest Electoral Breed, and producing unusually fine wool, into London, and from thence sent them out to this Country where they safely arrived in the following year. The success, I had in sending such valuable property out, induced others to follow my example, and the consequence has been several additional importations here of similar Sheep, which will in a few years change the character of all the Wool in the Colony, and thereby enable us most successfully to compete with Foreigners in this essential raw material, of which one of the great branches of British Manufacture is made, and in the end render Great Britain independent of Foreign supply.

Importation of Saxon rams.

I must here claim the merit of being the First Individual, who imported Sheep from Saxony for the improvement of the breed

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in New South Wales, and thereby rendering a most essential service to the Colonists at large.

Sum expended on importation and purchase of sheep;

I will now state for your information the Sum actually expended in importing Saxon and Merino Sheep of the choisest Kinds into this Colony, by what Vessels they were imported, and the cost to me as nearly as possible when landed here, vizt.:

The first lot, Imported from Saxony as before stated, were 20 Rams and 100 Ewes on the Vessels Prince Regent, Elizabeth and Hugh Crawford, costing me when landed here

£21 10s. each	£2,580	0	0

The Second lot were imported on the Ship Saracen and consisted of—

160 Saxon Ewes } 4 do Rams } costing each £16	2,624	0	0

Flocks of C. C. Western, Esqe., M.P., and costing here each £15 .. .. 3,060 0 0

I also purchased from imported Sheep into the Colony as follows:—

76 Merino Ewes, P. Hugh Crawford, @ £18 ea.	1,368	0	0
8 Do Do P. Guildford, @ £20 ea. ..	160	0	0
50 Do Do P. Columbia, @ £20 ea. ..	1,000	0	0
50 Do Do P. Lusitania, @ £15 ea. ..	750	0	0
	£11,542	0	0

Hereby exhibiting at one view that I have directly imported 488, and purchased on importation here 184, making in all as above stated 672 fine Woolled breeding Sheep, and at the expense of Eleven Thousand, Five Hundred and Forty two Pounds; and I may again repeat that I am not only the first importer of Saxony Sheep into the Colony, but at the same time the largest importer of fine Woolled breeding Sheep into it; and I will further add that I have expended a greater sum of money in importing Sheep into this Colony than any individual either residing here or having connexion with it.

and on purchase of land and live stock.

I have also expended in the purchase of

Land	£4,000	0	0
and in improvements of the same ..	2,000	0	0
I have besides expended in the purchase of Horned Cattle, Horses, Mares, etc.	3,000	0	0
	£9,000	0	0

Total expenditure and convicts maintained.

Making my total expenditure for the useful purposes of Colonization Twenty Thousand five Hundred and Forty two Pounds. I now cloath and maintain Thirty assigned Convict

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Servants, thereby saving to the Country the expense of cloathing and maintaining them.

Establishment of whale fishery.

I may add without the fear of contradiction that I have been mainly instrumental in opening another source of Colonial industry and product, and which will at no distant day be of vast importance to this country, namely the establishing the Whale Fishery from hence to the South Seas, and which has been effected under no common difficulties as well as expense; I am now part owner of Five Ships wholly employed in this trade and costing the owners Twenty five Thousand Pounds; these five Ships employ One Hundred and Forty Men; and besides this our Establishment on Shore, connected with this trade, employs Ship's Carpenters, Boat Builders, and other Tradesmen to the number of Thirty Men, and the Colonial expenditure connected with this Fishery being about seven Thousand Pounds per annum.

Capital invested and plant employed.

Claims to additional land grant.

Having shortly detailed the Money I have expended on my own account and in conjunction with others in enterprises intimately connected with the rising prosperity of this Country, I trust I shall be excused for asking from His Majesty's Government an additional Grant of Land, commensurate with the large property I have embarked in the Colony; and I found my claim more strongly for this favour, inasmuch as I have been a resident here nearly Twenty years, have a Family, and where I intend to spend the remainder of my days in the occupation of Colonial industry, and in forwarding the best interests of the Country in every way in my power.

Land granted and purchased.

It is proper I should here state that, during my long residence in the Colony, I have received as a Grant only Two Thousand Acres of Land, not so much as under present regulations a first class settler is entitled to, who is expected to introduce a Capital for Agricultural purposes of Two Thousand Pounds only; and I have been permitted to purchase from Government Four Thousand Acres more; it will therefore be apparent that I have had no other advantage hitherto after expending so large a sum of Money than is given to persons in the ordinary way of Settlement, and who in fact have done little to benefit the Country.

Necessity for extension of land grant for classification of sheep.

The Land I possess is too circumscribed to allow me to extend my Sheep Farming to the extent I could wish; and it will be of vast importance to the general interests of the Colony that I shall be able so to divide and select from these flocks Sheep not only possessing Wool alike, but Sheep that may produce Wool of a quality hitherto unknown in the English Market, and to effect this purpose different stations and tracts of Country will be necessary. Under these circumstances, and taking into consideration the large Capital I have expended, added to this my own

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Request for land grant.

personal Superintendence, I trust His Majesty's Government will be pleased to give me an additional Grant of Land commensurate with my expenditure, which I will again repeat is greater than any other individual has expended in a like property for Colonial improvement. I may further add there are some, in and connected with this Colony, that have had large tracts of Land given them for doing much less for the general benefit of the Colony than I have done; and, under these circumstances, I rely on the justice and liberality of His Majesty's Government to order the local Government to make me an extensive Grant of Land on my proving to their satisfaction all of which I have now set forth.

I have, &c.,

RICHARD JONES.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 61, per ship Vesper.)

20 May.

Report on case of Jane New.

Sir, Government House, 20th May, 1829.

Feeling it my duty to bring under your notice, the decision of the Judges of the Supreme Court in the case of Jane New, it being, as I conceive, at variance with the intimation conveyed in Paragraph Numbered 21 of your Despatch, dated the 31st of July last, No. 17, I beg leave to put you in possession of the general outlines of that case.

2nd. This Woman was transported for Shop lifting from England to Van Diemen's Land, where she resided for some time, when she received permission from that Government to come to this Colony.

Conviction and sentence of death.

3. She recommenced her former practices, and, being brought to Trial, the Court ordered that Judgement of Death should be recorded against her.

Doubts *re* validity of conviction.

4. On the Report of the case being submitted to the Executive Council, the Chief Justice intimated some doubt as to the legality or validity of the Conviction. The Opinion of the Judges was then called for, and I do myself the honor to transmit a Copy of the Chief Justice's Letter in reply, which explains the grounds on which the conviction was considered not to be valid, though no doubt was entertained of the Woman's guilt.

Removal to female factory.

5. In consequence of the Opinion of the Judges, "Jane New" was removed from the Jail to the "Factory" at Parramatta, where the Female Prisoners are all kept, who are not assigned as Servants to the Inhabitants, in order to prevent her continuing her depredations on the Public.

6. A Writ of Habeas Corpus was then moved for, and the Judges delivered their Opinion on the case. In consequence of

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Opinion of judges *re* power of governor over assigned convicts.

that Opinion, I addressed a Letter to the Judges, requesting they would furnish me with a Report of the case; and I now do myself the honor to enclose for your information, a Copy of their reply, transmitting their Report, by which it appears, as I have already remarked, that, contrary to the view conveyed in your Despatch of the 31st of July last, above referred to, the Judges consider, according to the true meaning and construction of the Act, the Governor has power only to withdraw assigned Servants in order to their receiving a Ticket of Leave or other indulgence.

7. My sentiments with respect to the Governor's being vested with the power of withdrawing assigned Servants are so fully expressed in my former Despatches,* that it cannot be necessary for me to repeat them in this place. But I beg, Sir, to draw your attention to the very serious inconvenience which must be experienced, should the Governor of this Colony and Van Diemen's Land not have authority to remove a Convict from one to another.

Necessity for power to remove convicts from place to place.

8. It may be proper to instance the case of Convicts giving evidence in Criminal matters, who frequently find it impossible to remain with safety in the Colony, from the circumstance of the Friends and associates of the opposite Party making common cause against them. I recollect an instance of a Man having applied to be sent to Norfolk Island, the strictest of the Penal Settlements, to avoid the fury of the Friends of the Individual against whom he had given evidence. Others, again, have made application to be allowed to remain within the Jail. It is evident, if the Government has not the means of affording such people protection, that they will not come forward, when they can possibly avoid it.

Judges' opinion *re* illegality of transfer of convicts.

9. It may, Sir, also be necessary to apprize you that there are several Individuals at this moment, who have been sent from one Colony to the other under the circumstances above stated; and who, according to the Opinion of the Judges, have been illegally removed.

I have, &c.,
Ra. Darling.

[Enclosure No. 1.]

Chief Justice Forbes to Governor Darling.

Sydney, 7th February, 1829.

Sir,

Opinion *re* invalidity of conviction of Jane New.

At the request of the Judges of the Supreme Court, I have the honor to acknowledge the receipt of Your Excellency's Letter, dated the 12th Ult., and desiring to be informed whether the case of Jane New, convicted at the last Criminal Sessions of the Supreme Court, falls within the Rule of Law* laid down by the Judges on the 1st April last, and whether such conviction is valid; and I am further requested to inform Your Excellency that the Judges, having taken the case of Jane New into their consideration with reference to their letters to Your Excellency under date the 1st of April

* Note 218.

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Opinion *re* invalidity of conviction of Jane New.

and 7th of July respectively, are of opinion that such case does fall within the Rule of Law laid down by the Judges in the case of Joseph Lee, and others, who were tried and received Sentence under Statutes which had been repealed, and were not in force at the time of the Offences Committed, and consequently that the Conviction of Jane New is not valid.

I have, &c.,
FRANCIS FORBES,
Ch. Juse. Sup. Court.

Trial of Jane New.

The King agst. Jane New. } Case to which the foregoing Letter refers.

The Prisoner Jane New was tried and convicted on the 5th day of January, 1829, of the Offence of Stealing in a Dwelling House, goods above the Value of Five Pounds; the Offence was laid as done on the 18th day of December, 1827, against the form of the Statute in such case made, that is to say the Stat. 12th Ann. Chap. 7, which Statute was not in force on the 18th of December, 1827, having been repealed and not re-enacted* in this Colony until April, 1828.

[Enclosure No. 2.]

GOVERNOR DARLING TO JUDGES OF SUPREME COURT.

Gentlemen, Government House, 4th April, 1829.

Request for report of opinions by judges.

Understanding that the view taken by Your Honors of the 9th Section† of the 9th Geo. 4, C. 83, is contrary to the intentions of Parliament, as signified to me in a Despatch addressed to me by The Right Honble. The Secretary of State on the subject of the above Act, an Extract* of which I do myself the honor to enclose herewith, I request you will be pleased to furnish me with a Report of the Opinions, which you severally expressed in the case of Jane New on the 21st of last Month, as far as relates to the powers of the Governor of this Colony to grant Tickets of Leave to Convicts, or to withdraw Assigned Servants from their Masters, it being my intention to transmit your Report to the Secretary of State in order, if the Act be inconsistent with the intentions of Parliament, that the subject may be again brought under its consideration.

I have, &c.,
RA. DARLING.

[Enclosure No. 3.]

JUDGES OF SUPREME COURT TO GOVERNOR DARLING.

Sir, Sydney, 25th April, 1829.

Letter acknowledged.

We take the first opportunity that a temporary cessation from our laborious avocations in Court has afforded of acknowledging the honor of Your Excellency's favor of the 4th inst. and complying with the request therein contained, namely, that we should furnish Your Excellency with a Report of the Opinions, which we severally expressed in the case of *Jane New* on the 21st of last Month, as far as relates to the Power of the Governor of this Colony to grant Tickets of Leave to Convicts, or to withdraw Assigned Servants from their Masters, it being Your Excellency's intention to transmit our Report to the Secretary of State, in order that, if the 9th Section of the 9th Geo. 4th, C. 83, be inconsistent with the intention of Parliament, the subject may again be brought under its consideration.

* Note 218. † Note 219.

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We have also to acknowledge the honor of receiving the Copy of an Extract of a Despatch addressed to Your Excellency by The Right Honble. The Secretary of State, under date 31st July, 1828, on the subject of the above mentioned Act.

Proposal for legislation by council.

In transmitting herewith the Report of our Opinions delivered in the case alluded to, we venture most respectfully to submit for Your Excellency's consideration whether, instead of pressing the subject upon the attention of The Right Honble. The Secretary of State, the more expedient and direct course to be adopted may not be to lay the matter before the Legislature of the Colony as soon as practicable, in order that some Act may be passed, so suited to the exigency of the occasion as not to compromise the assumed intention of Parliament, and at the same time sustain the general analogies of the Law in like cases.

Error in insertion of clause in N.S.W. bill.

Adverting to the notice of the Right Honble. The Secretary of State that, in the Printed Copy of the 9th Geo. 4, C. 83, the 9th Section is inserted by accident in a place where it should not have been introduced: and presuming as we do, that its proper place is between the 33rd and 34th Section,* we would take the liberty of observing that, if the 9th Sect. be read in connection with the 32nd and 33rd Sections, the construction, we have put upon the Section in question will be found in accordance with the intentions of the Legislature upon a matter, which, to say the least, is of doubtful import.

We have, &c.,
F. Forbes, C. Just.
John Stephen.
James Dowling.

[Enclosure No. 4.]

Ex parte Jane New.

Opinion by F. Forbes *ex parte* Jane New.

Supreme Court, New South Wales, 21st March, 1829.

The Chief Justice delivered his opinion to the following effect:—

This is an application to the Court to enlarge the Prisoner, Jane New, upon the ground that she is unlawfully detained in the Factory at Parramatta. It were superfluous to offer any remarks upon the nature of the remedy, which is now sought at our hands; the Writ of Habeas Corpus is the great constitutional process, by which every subject of His Majesty, being in a state of Confinement, may upon sufficient grounds bring his case before the Court, and demand his liberation as matter of right, if his confinement be contrary to law. We, as the Judges of this Colony, are expressly invested by Act of Parliament with the same powers as the Judges of the King's superior Courts at Westminster, and we are equally bound with them, by the obligation of our Office and the heavy penalties to which we are subjected, to award this process at our peril and to investigate every case in which a probable ground may be laid for our interposition. That the Writ of Habeas Corpus, transcendant as it is in its nature, has been temperately used in this Colony, may be inferred from the fact that, during the five years which have passed since the first opening of the Supreme Court, I do not recollect above three cases which have occurred of this Writ having issued to enlarge any person upon the ground of being illegally imprisoned; and the present instance I believe to be the first, in which the discharge of the party applying for the Writ has been contested by the Officers of the Crown.

* Note 219.

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Opinion by F. Forbes *ex parte* Jane New.

The few facts, to which it will be necessary to advert in delivering my opinion upon the application now before the Court, are as follow:—Jane New was tried at the assizes held at Chester in England in 1824, and convicted of larceny, for which she was sentenced to be transported 7 years; the Prisoner was accordingly sent to Van Diemen's Land, and, as appears by the Affadavits, was in the year 1826 married to James New by the permission of the Governor of that Colony, and subsequently by the same authority suffered to accompany her husband to New South Wales. At the last Criminal Sessions of the Supreme Court, the Prisoner was convicted under the Statute 12th Ann., C. 7 (the statute which takes away benefit of Clergy from the offence of stealing in a dwelling house above the value of Forty Shillings), and judgement of death was recorded against her. This sentence, as it is stated upon the affadavits, was afterwards remitted by the Governor in pursuance of His Excellence's commission from the Crown, and the assignment of the Prisoner to her husband was revoked, and her person ordered to be delivered over from the Gaol, to which she had been committed under the judgement of the Supreme Court to the Superintendent of the Factory at Parramatta, there to be detained in like manner as other Female Prisoners, being under unexpired sentences of transportation.

Upon this state of facts, two questions have been raised at the bar for the determination of the Court: First, Whether the Sentence, passed upon Jane New in this Colony, is to be considered upon the facts before us as a good subsisting sentence, and as placing her at the disposal of the Governor in pursuance of the local laws of the Colony; or secondly, assuming such sentence to have been remitted, whether the Governor is enabled by the New South Wales Act to revoke the original assignment of Jane New to her husband, and either to reassign her to another person, or to retain her in the service of the Crown.

Upon the first point, I am of opinion that sufficient evidence is before the Court, upon the affadavits and the documents annexed to them, to satisfy the Judges of a fact, which they cannot but be presumed to know, that His Excellency the Governor had, in consequence of their own opinion, communicated in another course of proceeding, been pleased to remit the sentence passed upon Jane New for her Offence within this Colony. I accede to the argument of the Attorney General that a pardon is not perfected in due form of law until it has passed the Great Seal; that the signet or sign manual, or any less formal mode of granting a pardon, cannot be pleaded or even adduced in evidence to reverse the legal consequences of attainder, or to restore the party attaint to his *plenam et liberam legem* in any case, where the effect of a pardon is the immediate subject matter of enquiry before the Court; such instruments, however, are held sufficient to induce the Court to admit a Prisoner to Bail, and to liberate him from personal restraint (4 Bl. Com. 400). Even a conditional promise of mercy, held out by Justices of the Peace to induce a party to give Evidence which may criminate himself, has been held sufficient to authorise the Court to bail, although it appeared that the Justices had exceeded their power, and the promise so held out by them was strictly void (Cowp. 331). When we consider, therefore, that the letter from the Colonial Secretary to the Sheriff, as his warrant for discharging the prisoner from the common Gaol, expressly stated, as the ground

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for such removal, that "the Governor had been pleased to remit the sentence passed upon Jane New," and that it is further stated in the affadavit of the Colonial Secretary, in explanation of the circumstances under which the Prisoner was subsequently detained in the Factory, "that His Excellency had been pleased to revoke the assignment of such Prisoner," we cannot reasonably doubt the fact that His Excellency the Governor had been pleased to remit the Colonial sentence passed upon Jane New; and, upon such fact, we should be bound to admit the Prisoner to Bail in order to her obtaining her full pardon in due form of law. I think, therefore, from the state of facts before us, as well as from our own judicial knowledge of the grounds upon which this Prisoner was considered as entitled to a Pardon, we may lay out of the case her Colonial Sentence, and pass to the examination of the other and more important point, which has been raised for the decision of the Court, namely, how far this woman, having been originally transported to Van Diemen's Land, and assigned by the Governor of that Colony, is subject to the laws and Regulations applicable to Convicts transported to this Colony, and to the power of the Governor of New South Wales to revoke the assignment, by force of the Statute 9th Geo. 4th, c. 83, or any other power with which, as the Governor of this Colony, His Excellency may be clothed.

The clause* of the Act under consideration is certainly expressed in an ambiguous manner, and is capable of two distinct readings. It recites the Act passed for the transportation of offenders in the 5th Year of His present Majesty, by which a property in the service of transported offenders is vested in the assignees of such offenders, and then goes on to restrain such assignments without the previous consent of the Governor, and further to enable the Governor to revoke any assignments, and to grant to any Offenders such temporary or partial remissions of their sentences as may seem best adapted for their reformation. It is affirmed by His Majesty's Law Officers that the power of revoking assignments of Convicts to Settlers has no necessary connection with the clause, which follows, of granting temporary remissions of their terms; that they are distinct and substantive powers conferred by the Act, and that the Governor may revoke the assignment of a Convict Servant made to A and reassign him to B at His Excellency's discretion; and that the fact of a Prisoner's being within the limits of this Colony places such Prisoner within the exercise of this discretionary power of the Governor.

The latter part of this doctrine appears to me to be clearly untenable. The very power, that is claimed to belong to the Governor, is derived from the positive provisions of an Act of Parliament, and the same act, which gives the power, confines it to Prisoners transported directly from England, or some other part of the King's dominions to this Colony. Van Diemen's Land is now, to all intents and purposes, a distinct Colony from New South Wales, and the Governor of the latter can no more revoke any act of the former than of the Governor of any other Colony under His Majesty's Crown. The mere circumstance of the Prisoner being under sentence of transportation from England, and being found within the limits of His Excellency's Government, cannot confer the power contended for: it must derive its force from some positive enactment, or it cannot exist. Now the clause, under consideration, refers to assignments made by the respective Governors of New

* Note 219.

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South Wales and Van Diemen's Land, in pursuance of the transportation Act,* which enables them respectively to revoke such assignments; that is, each of the said Governors may revoke any assignment, made by himself or his predecessors, of any Prisoner transported in pursuance of that Act to the Colony under his Government; but it does not enable the Governor of one Colony to cancel assignments made by the Governor of the other.

But it appears to me that this power of revocation is not sustainable under any circumstances, in the large and discretionary form in which it has been claimed by the law officers of the Crown. It involves a question of vital importance to the colonists, the tenure by which they held their servants, and, by consequence, the value of their estates and the security of their property, for, without labor, land in this Colony is useless, and the only laborers, which can be held securely, are assigned Prisoners. If I correctly understand the Attorney General, he contends that the Governor may, at discretion, revoke the assignment of the whole of the Prisoners in the service of the settlers, and, as a consequence, render their estates comparatively of no value. That His Excellency will not exert such a power may be assumed; but it is upon the existence of such power, not the exercise of it, that we are called upon to express our opinions; and, before the bare abstract claim of such a power can be sustained by the adjudication of this Court, it must be established to its entire conviction upon the clearest manifestation of the intention of Parliament. Now the act, as I have already stated, is ambiguous in its form of expression; and, in endeavouring to define its true meaning, the safest course will be to see how the law stood before the passing of the Act, and what alterations appear to have been intended.

Transportation was unknown to the common law of England; it derives its origin from Acts of Parliament. The transportation Acts† have two specific objects in view, the punishment of Criminals, and the supply of the Colonies with labor. In the accomplishment of these objects, the first act of Parliament, 4th Geo. 1st, c. 11, affixed the punishment of transportation to certain Offences, and enabled the Judges to transfer such offenders to some person, who should contract to convey them beyond seas, and vested in such contractor and his assignees a property in their services, during the entire term of their transportation. The Act reserved to His Majesty the power of allowing the return of any transported felon; but it provided that the *owner or proprietor* should receive an *equivalent* for the loss of his services, to be assessed by two Magistrates of the province or Colony, to which such felon had been transported; the provisions of this Act have served as the ground work for all the transportation laws, which have subsequently passed. The 8th Geo. 3rd, c. 15, 24th Geo. 3rd, c. 56, 56th Geo. 3rd, c. 27, all reorganise and confirm this right of property in the services of a transported offender. The last transportation Act 5th Geo. 4th, c. 84, follows the same course; it repeals all the former acts, and consolidates their provisions into one law; this Act appears to have been generally considered as having introduced the right of transfer from one assignee of a Prisoner to another, and as vesting such a property in the assignee as could not be affected by any act of the Governor, in granting what in this Colony are called *Tickets of Leave*. The Act had expressly saved His Majesty's power of mercy, but it contained no such reservation to the Governor of

* Note 104. † Note 220.

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the Colony, who consequently could only remit the Sentence of an assigned Prisoner by granting him a conditional pardon under the provisions of former statutes. Tickets of Leave were in the nature of a temporary and resumable indulgence, which exempted the servant from the control of his Master and permitted him to enjoy the profits of his own labor. These instruments were in some respects preferrable to remissions; they acted as a stimulus to reformation, and at the same time, by being resumable, they served as the best guarantee for future good behaviour. In the earlier state of the Colony, when the number of Prisoners greatly exceeded the demand for labour, this practice of granting Tickets of Leave was tacitly submitted to by the Settlers; but, in latter times, its legality has been called in question, and this circumstance gave rise to the provision of the Act under consideration; it was to legalize tickets of leave, or, as they are described in the Act of Parliament, temporary and partial remissions of the terms of transported offenders. The best expositors of the law are the circumstances, which called it forth; viewing it with reference to the practice of granting these temporary indulgencies, it clearly and primarily had in view the enabling the Governor to cancel the previously vested right of the assignee in the Services of the Prisoner, and to extend the grace of mercy in such a temporary and resumable form as might serve at once to reclaim a lost Member of Society, and to guarantee his continued reformation. The Act of revocation was a necessary preliminary to granting any temporary or partial remission, "temporary or partial" suppose a limit, a part of the term unremitted and the residue would consequently remain vested in the assignee; in order therefore to give full effect to the clause, it became necessary first to cancel the assignment, and destroy any residuary right of property in the assignee; the Act says, "it shall be lawful for the Governor to *revoke* any such assignments of Offenders, *and to grant* to any offenders such temporary or partial remissions of their sentences as may seem best adapted for their reformation"; had it intended to enable the Governor to revoke the Assignment to one person, and to reassign to another, I think it would have been clearly and distinctly so expressed. The right of private property, when once acquired, is held so inviolable by the Laws of England, that I cannot easily suppose it to have been the intention of Parliament, after having created this right in the assignee of a Prisoner in the most express and formal manner, and having carefully preserved it through the successive provisions of a chain of Statutes, to take it away by a word; and that, without any cause alleged, or any previous enquiry, or any definite course of proceeding directed for the exercise of so strong and anomalous a power, a power which would be, perhaps, without a precedent in the records of Parliament. As then the Clause in question will admit of a different construction, I am bound to put that interpretation upon it, which will best effectuate the apparent intentions of the legislature, without violating the analogies of Law or disturbing the vested rights of property.

I am aware that it is open to argument, in support of the construction contended for, that cases may occur and have occurred, in which the assignees of Prisoners have abused the power they possessed over their Prisoner Servants, and that it is expedient that a controlling authority should be lodged somewhere of restraining such abuses and of putting an end, in extreme cases, to the

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relation between the Master and his assigned servants. An authority of this sort has in fact been exercised by the Justices within the several districts of the Colony after the manner of dissolving the union between Master and apprentice; and I am not prepared to say that some law may not be found sufficiently wide to admit the exercise of this very equitable jurisdiction. Every Act of Assignment performed by the Governor is a public Act; it is a partial execution of the laws of the Land; it is presumed, like every other public trust, to be exercised for the benefit of the whole community; as between the Government on one side, and the assignee on the other, it raises an implied contract, by which the assignee is bound to use the Prisoner with kindness, and to provide him with food, clothing and protection; the rights of the Prisoner and the interests of the Public demand the most exact observance of this implied stipulation; and any breach of it, on the part of the Master, should upon every sound principle be considered as a dissolution of the Contract. But such dissolution should be preceded by some course of legalized enquiry, in which the parties may be heard, and the penalty of revocation, if awarded, deliberately adjudged. Whether this authority, so exercised by the Justices, be well or ill founded, it is now not necessary to enquire; if their Jurisdiction have no stronger ground to rest upon than the silent acquiescence of the public, it proves the necessity of resorting to the legislature of the Colony. But I cannot discover how a fair argument can be raised upon any defect in the jurisdiction of the Magistrates to sustain the naked power which has been claimed on behalf of the Governor. If His Excellency be indeed invested with this power by the high authority of Parliament, it cannot be delagated to other hands; it must be strictly pursued and exercised at the pure responsibility of the Grantee (Cowp. 29) and thus the penal consequences, which, under the unlimited power contended for, would place the whole of the estates and fortunes of the settlers at the discretion of the Government, may be enforced, at mere will, without complaint or hearing or trial, or in short any one recognized form of judicial investigation.

From this review of the arguments which have been used at the bar, it will be collected as my opinion that the latter part of the 9th Section of the Act of Parliament must be taken as one entire clause, and as conferring upon the Governor of the Colony the single power of revoking the assignment of a Convict servant for the purpose of remitting his sentence. I do not think however that the decision of this point of law, which has been incidentally raised, is essential to the final disposal of the case; there is another and more conclusive point, which has been lightly touched in argument, but which appears to me to be imperative upon the Court as to the course which, under the circumstances in evidence before us, it is bound to pursue. It is admitted by James New, indeed the whole facts before the Court shew that the Prisoner is a transported felon, transported to Van Diemen's Land from England, and that her sentence has neither expired nor been remitted; she is therefore a transported felon, found at large in New South Wales. It is true that she has been permitted to follow her husband and master to this Colony by the Governor of Van Diemen's Land; but I am constrained to hold that such permission was not within the power of the Governor of that Colony to grant; and, while I am anxious to do justice to the humane intentions which induced His

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Excellency to extend this indulgence to the Prisoner, it is a duty which I owe to the seat in which I am placed, to state my opinion freely and fully upon this important question of penal law.

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The Acts of Parliament for the transportation of convicted felons are the only guides to be followed by the Court. Now these Acts authorize His Majesty's Secretary of State to appoint a place, to which transported felons may be sent, and provide for such felons being conveyed to such place, and there subjected to a certain discipline and to the summary jurisdiction of the local authorities; and, in order to prevent their escape, it is made a misdemeanour in any person to aid or assist in such escape. The whole of the provisions of the acts have a clear and exclusive reference to the original place of transportation, selected by the Secretary of State (2 Barne and Ald. 262). When therefore a Prisoner, who is transported to one Colony, is permitted to remove to another Colony, such Prisoner is no longer within the Provisions of the Acts of Parliament; he is not transported to such other Colony, and consequently not subject to the summary jurisdiction of the Magistrates; he has never been assigned to the Governor of such Colony, and consequently the Governor can transfer no property in his services; he is not within the Acts of Parliament, as with reference to the Colony to which he has removed. The fact of his being a convicted felon does not in itself subject him to the legal consequences of the transportation Acts; those Acts are very particular in their details; they must be strictly followed; and, where they are silent, there is no law. I feel therefore no difficulty in holding that the Prisoner *Jane New* is unlawfully at large in this Colony; and however she may not be subject to the local authorities, to be dealt with in all respects as a Prisoner from England to this Colony, yet as the Supreme Judges of the Land, and the Administrators of the laws of the empire, against which we find this person offending by being at large in this Colony, contrary to the provisions and the whole policy of the Acts for the transportation of Offenders to these Settlements, we feel ourselves bound to remand her to the custody of the Government for the purpose of being sent back to Van Diemen's Land, the place of her original and unsatisfied term of transportation.

FRANCIS FORBES.

EX PARTE JANE NEW.

Concurrence of J. Stephen with opinion by F. Forbes.

MR. JUSTICE STEPHEN delivered his opinion to the following effect:—

I entirely coincide in the view taken of this case by His Honor the Chief Justice.

He has gone so fully into the subject that I think it unnecessary to add any thing to what has fallen from him. I think that the Prisoner Jane New under the circumstances must be remanded.

JOHN STEPHEN.

EX PARTE JANE NEW.

Opinion by J. Dowling *ex parte* Jane New.

MR. JUSTICE DOWLING delivered his opinion to the following effect:—

On a former day in this Term, the Court, at the instance of the Prisoner's Husband, granted a Writ of Habeas Corpus directed to the Matron of the Female Factory at Parramatta Commanding her to bring up the body of Jane New into this Court; The body of the Prisoner having been brought into Court on Wednesday last, it

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appeared from the Documents and Evidence then produced, that she had been tried by the name of Jane Henrie, alias Maria Wilson, at the Chester Quarter Sessions in April, 1824, and Sentenced to Seven Years' transportation, and was accordingly transported to Van Diemen's Land, at which Island she arrived in 1825. On the 24th of July, 1826, she was married to James New with the consent of the Lieut. Governor of that Settlement, by whom she was duly assigned to the same James New as his Servant. On the 26th of September, 1827, the Lieut. Governor granted permission to the Prisoner to proceed with her Husband to Sydney. On the 5th of January last, she was tried in this Court for a Capital Offence committed in Sydney on the 18th December, 1827, and Sentence of Death was ordered to be recorded, and there-upon she was remanded to Sydney Gaol. The Judges of this Court know Officially that an objection was afterwards made to the validity of the Conviction in point of Law, and after due deliberation they felt themselves bound to declare the Conviction void.

It appears now that the Prisoner on the 19 of February last was, by virtue of an Order of His Excellency the Governor, removed by the Sheriff from Sydney Gaol to the Female Factory at Parramatta, in which place she was in confinement at the time of the issuing of the writ of Habeas Corpus. In an affidavit made by the Honble. the Colonial Secretary, it was stated that the Prisoner had never been assigned by His Excellency the Governor of New South Wales to any Individual whatever, and that, she having been transferred by the Governor of Van Diemen's Land to this Colony, His Excellency the Governor had been pleased to revoke the Assignment previously made of her to her husband by the Lieut. Governor of Van Diemen's Land, and had directed her to be sent to the Female Factory at Parramatta, a Government Establishment appropriated to the reception of Female Prisoners of the Crown.

Under these circumstances, the question is whether the Court has any Authority to discharge the Prisoner.

I am clearly of opinion that we have no authority to discharge the Prisoner, and that, by virtue of the paramount ministerial jurisdiction of this Court, we are bound to remand her as a Prisoner of the Crown, at large without lawful authority, and to direct that she be removed to Van Diemen's Land whence she came, there to be dealt with according to Law.

It is admitted on all hands that this Prisoner is a Convict Felon, having been senteneed by a Court of competent Authority in the Mother Country to be transported to such place beyond Seas, as His Majesty by and with the advice of his Council should direct and Appoint for the Term of Seven Years. It appears that His Majesty had appointed Van Diemen's Land as the place to which the Prisoner should be transported, and thither she was transport accordingly. Her home Sentence will not have expired until the 26th of April, 1831. Whilst at Van Diemen's Land, she was allowed to intermarry with James New, to whom the Lieut. Governor of that Island had authority to assign her as a Servant by virtue of the transportation Act, 5 G. 4, Cap. 84, S. 8, and it is sworn that she was duly assigned to the Husband accordingly. On the 26th of September, 1827, the Lieut. Governor gave the Prisoner permission to accompany her Husband to Sydney. Doubtless this permission was given from motives of merey to the Prisoner; but I apprehend that the Lieut. Governor of that Island had no Authority by

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Law to grant such permission. The Prisoner was indented as a Convict transport to Van Diemen's Land, there to remain until her Sentence should expire. By the 44th Sect. of the 4 Geo. 4. C. 96, Authority was given by Parliament to His Majesty to erect the Island of Van Diemen's Land into a separate Colony, independent of the Government of New South Wales. It is known, as matter of history, that such separation has taken place and that the jurisdiction of the two Colonies are separated to all intents and purposes. Therefore, althongh the Lieut. Governor of Van Diemen's Land had authority to assign the Prisoner to her Husband as his Servant, yet it appears to me he had no power to allow her to accompany him to New South Wales, a place entirely out of his Government. Her coming here was in Law an escape from Van Diemen's Land, and the Lieut. Governor's permission would be no defence in Law to an Indictment for such escape, altho' it would certainly be a good reason for exempting her from punishment. The practice of allowing Prisoners of the Crown to go from one Colony to the other, were it generally sanctioned, would lead to the greatest possible inconvenience. As the Magistracy of both Colonies have each a separate and exclusive jurisdiction. There would be no power of dealing summarily with persons of this description, guilty of Offences in the Colony to which they did not properly belong, and consequently that system of discipline, provided by the Legislature for the Government of the prison population, would become inoperative in such cases. There are other reasons not necessary now to point out, which would further prove the inexpediency of sanctioning such a practice. It appears to me, however, that, as the removal of this Prisoner to this Colony was not lawful, she may be treated as a Runaway Prisoner of the Crown from Van Diemen's Land and returned to that Colony until her original Sentence shall have expired.

Viewing the case in this light, it is unnecessary to give any Opinion as to the sufficiency of the return to the Habeas Corpus and Affidavits thereon, to authorise her detention in the Factory at Parramatta on other grounds. It does not appear that she has been treated there with any degree of unnecessary restaint, and, for anything that appears to the contrary, she may have been sent there for better accommodation than the Gaol of Sydney would afford until she could be removed to Van Diemen's Land, whither I am clearly of opinion, she may be sent for the reasons I have stated.

In the course of the discussion of this case, a question incidentally arose of very great importance, namely, as to the construction to be put upon the 9th Sect.* of the new Act 9th Geo. 4th, C. 83, touching the Governor's power of revoking assignments of Crown Prisoners made under the 5th G. 4, Cap. 84, Sect. 8.

In this particular case, the construction of that Section of the Statute does not distinctly arise, because I take it to be perfectly clear that at all events it is not within the power of the Governor of New South Wales to revoke at Sydney an Assignment made at Hobart Town by the Lieutenant Governor of Van Diemen's Land, of a Prisoner of the Crown transported from the United Kingdom to that Settlement. Such a revocation, I conceive, could only be made at Van Diemen's Land by the Lieut. Governor of that Colony.

In this case, I should have been strongly disinclined to give any opinion upon the construction generally of the 9th Sect. of the

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Statute alluded to, because it does not properly arise; but, inasmuch as the question has been pressed upon our attention on both sides, and the Opinion of the Court urgently sought for by the Law Officers of the Crown, I feel no hesitation in giving my present views upon it, although it is a matter which may possibly require hereafter more advised consideration.

Before, however, I address myself to the consideration of the particular provisions of this Section, it may not be amiss to advert generally to the nature and consequences of the punishment of Transportation from the Mother Country to these Settlements. I take it to be perfectly clear from all the Statutes, passed upon this subject, that two leading consequences flow from this punishment, first, to subject the Offender during the period of his banishment to ordinary Labour, but to no greater degree of restraint than is necessary to the due performance of such Labour; and, Secondly to vest absolutely the property in his Labour in the Governor of the Colony for the time being, or in his (the Governor's) Assignee, for such time as the punishment of Transportation is to continue. These results are to be collected from the Statutes* 4 Geo. 1st. C. 11, 8th Geo. 3, C. 15, 43 Geo. —, C. 15, 56 Geo. 3rd. C. 27, and 5th Geo. 4, C. 84. By the 8th Section of the last mentioned Act, it is enacted that, "as soon as the offender shall be delivered to the Governor of the Colony, the property in the Services of such Offenders shall be vested in the Governor, and it shall be lawful for the Governor, whenever he shall think fit to assign any such Offender to any other person, for the then residue of his or her term of Transportation, and for such Assignee to assign over such Offender and so on as often as may be thought fit, and the property in the Service of such Offender shall continue in the Governor for the time being, or his assigns during the whole remaining term of Life or Years, for which such Offender was sentenced or ordered to be transported."

Until the passing of the late Act of Parliament 9th Geo. 4th, Cap. 83, S. 9, the Governor's Assignee of a Transported Convict had an absolute indefeasible property in the Services of the Transport as long as the remainder of his original Sentence endured. I know, until then, of no authority anywhere in this Colony to cancel such Assignment without the Assignee's consent. The Service of a Convict would indeed be suspended during the operation of a Colonial Sentence for punishment for an Offence here committed, but the legal effect of the Assignment would remain untouched. Then what alteration in the Law has the 9th Geo. 4th, Cap. 83, S. 9 made? Looking to the spirit of that clause, it is quite obvious that one important object of the Legislature was to meliorate the condition of the transport, and to endeavour by lenient means to effect a reformation in his habits. It is matter of history that, in former times, it was not an uncommon thing for the Assignee of a Convict Servant to sell his Services or assign them to another person for pecuniary consideration. It often happened that a Convict Servant was Assignee to a harsh, immoral or otherwise improper Master. Hence arose the Ticket of Leave system, a system which had no legislative Authority for its support, but which was certainly productive of much good in improving the condition of the Prisoner, and holding out to him a strong incitement to good behaviour. I venture to presume, however, that it never could have been the intention of the Legislature in passing this Section to give an absolute and indisputable power, without cause assigned and adjudicated

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upon, of divesting the Assignee of a Convict Servant of the property in his Services vested by the Act of Parliament.

Before proceeding farther, I shall advert to the terms of the Enactment.

It first recites the 8th Sect. of the transportation Act 5 Geo. 4, C. 84, to which I have already referred, and then proceeds to make two distinct alterations in the Law, first, it Enacts "That any Offender, who hath heretofore been, or shall hereafter be Assigned to any person or persons within the said Colonies respectively, under and in pursuance of the said Act, shall not by any such Assignee or Assignees be Assigned over to any other person or persons, except with the written consent and License of the Governors of such Colonies respectively."

This is a material qualification of the right of property of the Master in the Services of the Convict, but a most salutary alteration in order to prevent the abuses arising from the previously unlimited power of transferring the services of a prisoner from person to person as matter of Sale, barter or Letting. There is here a posltive prohibition of that system. It is founded on a Spirit of humanity and justice towards that class of persons, whom the policy of the Law has laid under the restraints of obligatory servitude, but which has, at the same time, considered reformation as an important object of punishment.

Secondly, It enacts "that it shall and may be lawful for the Governors of the said Colonies respectively, from time to time as to them shall seem meet, to revoke any such Assignments of Offenders as may have been or as shall hereafter be made in pursuance of this Act, and to grant to any Offender or Offenders transported to the said Colonies, such temporary or partial remissions of their sentences, as to such Governors may seem best adapted for the reformation of such Offenders, and such temporary or partial remissions from time to time to revoke and renew as occasion may require."

I apprehend that this second branch of the clause is to be construed and considered by reason of its punctuation, as one substantive Enactment, having one common object in view, that is, to give a power of revoking assignments for the merciful purpose of granting such temporary remissions of Sentence as may seem best adapted for the reformation of Offenders; A very wide discretion is certainly thus given; but, mercy and tenderness with a view to the Amendment of the transported Offender being apparently the sole object of the Legislature, it is a discretion, the exercise of which might be safely and beneficially entrusted to those who are called upon to act upon it. At the same time, this discretion, I apprehend to be analogous in principle to the discretionary power of a Court of Justice, which, as Lord Mansfield says in the King v. Willis 4, Burr. 2,539 means, "Sound discretion guided by Law. It must be governed by rule, not by humour; it must not be arbitrary, vague, fanciful, but legal and regular"; and again by Lord Kenyon in Wilson v. Rastall, 4 Term Reports 737, "The discretion, to be exercised by a Court or a Judge, is not a wild but a sound discretion, and to be confined within those limits, within which an honest man, competent to discharge the duties of his Office, ought to confine himself."

I cannot collect from this branch of the Section that the power of revoking Assignments was intended as a means of punishing the

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Master, or visiting him without cause, suggested with the loss of his Assigned Servant's Services. If this had been the object of the power, it is highly probable that the Legislature would in its cautionary wisdom have introduced some provision to that effect, especially when we consider the jealousy with which the Legislature invariably protects the private property of the King's subjects from invasion by means not recognized by the common Law of England. The Legislature, I apprehend, regards the property of the Master in the Services of his Assigned Servant as inviolable, and not to be divested without reasonable cause. What that cause is, must be left to the honest and sound discretion of those who are to judge of it; but, looking to the spirit of this Section, it must when exercised always have reference, as I conceive, to the reformation of the transported Offender.

Parliament having given this Authority to the Governor, it appears to me that, from its very nature, it ought to be exercised *sub modo*; that is, in such a way as is consentaneous with the rights of the subject. It implies solemn enquiry and adjudication by means known to the Law of the Land. The Authority is created, but must be exercised in a manner agreeably with the scope and principal of municipal Law; I take it to be a sound legal principle that all powers of this nature, so deeply affecting private proverty, should be exercised by persons who are responsible to the Law for any abuse or misuse to which they may be exposed. His Excellency the Governor's high office, I apprehend to be purely executive and not judicial. Parliament has devised an obvious as well as easy mode of placing the exercise of this power upon a proper constitutional footing, which, whilst it relieves His Excellency from the very great difficulty not to say unseemly odium, which the personal exercise of such a power would necessarily subject him, at once reduces its exereise to legal certainty, regularity and responsibility. The means, I allude to, are in the hands of the Local Legislature. By passing an Ordinance in Council, this jurisdiction may with great propriety be east upon the Magistracy, who under proper Regulations may constitutionally and legally carry the intentions of Parliament into effect.

In order to shew the good faith of the Legislature with respect to the effect of an Assignment of the Services of a transported Offender, this provision will be found in the transportation act 4 G. 1st, C. 11, S. 2 (now repealed), namely "That His Majesty may at any time dispense with such transportation and allow the Offender to return, *he paying his Owner a reasonable Sum to be adjudged by two Justiees of the plaee where his Owner dwells.*"

This shews that the Legislature at that time considered that the Assignee of the Governor had an absolute right of property in the Services of the Prisoner, not to be divested without compensation.

Although the former transportation Acts have been repealed by the 5th Geo. 4, C. 83; yet I apprehend we are at liberty to look at them, as being *in pari materia* with the section of the Act now under consideration, and that we are bound to give such an interpretation as is most consonent with the wisdom and justice of the Legislature. It is a maxim in the construction of Acts of Parliament, affecting private as well as public rights, "that, where the object of the Act is to impose a burthen or to take away a right, such Language must be proved to have been used, as shews most unequivocally that it was the intention of the Legislature that the

burthen should be imposed and the right taken away." Rex v. the Dudley Canal Company, 7 Dowl. and Ryl. 476. 1829. 20 May.

There may be cases in which an inconsiderate exercise of the power thus given would be productive of great hardship and injustice. Suppose the Master of an Assigned Servant has taken unusual pains in instructing his Servant in a difficult art, requiring great skill, with a view to have the future benefit of his industry; I apprehend that, before the assignment could be cancelled, it ought to be made manifest that the reformation of the Servant was the Sole purpose to be effected, or that the Master had done something that ought to subject him to the forfeiture of his Assigned Servant. It is however unnecessary to point out other instances, in which hardship or injustice might be produced through an indiscreet and irresponsible exercise of the power thus given. Injury to the Master appears not to have been contemplated by the Legislature, for it cannot be supposed that the right of the Master to the Services of his Assigned Servant was meant to depend upon an Arbitrary and undefined discretion, governed by no certain Rules of conduct, and guided by no avowed cause. To hold such a doctrine would be pregnant with the most serious inconvenience, both to the Master and to the Servant, by leaving to uncertainty and insecurity that bond of protection on the one hand, and of dependence in the other, which is so essential to the well-being of domestic Life. Opinion by J. Dowling *ex parte* Jane New.

As at present advised, I entertain a very clear opinion upon the construction to be put upon this Section; but should the question be hereafter brought under the consideration of the Court in a more formal shape, I reserve to myself the opportunity of a more deliberate judgment than this case has afforded me of forming. I have, however, felt myself at liberty to take this general view of the subject, in consequence of our attention being invited to it by the learned Counsel on both sides.

With respect to the case of the Prisoner now before the Court, I am of Opinion, for the reasons already given, that she must be committed to the Custody of the Sheriff, until she can conveniently be returned to Van Diemen's Land, the place of her Original Transportation.

JAMES DOWLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship John.)

Dear Sir, Downing Street, 21 May, 1829. 21 May.

The enclosed letter from a Prisoner at New South Wales, named F. Van Lahsbusch, who appears to have been transported to that Colony for a Capital offence committed at the Cape of Good Hope, has been left with Sir George Murray by Baron Bulow, the Prussian Minister. Transmission of letter from F. van Lahsbusch.

The case of this Prisoner, if true, and we have no reason to doubt the accuracy of his story, is a very distressing one; and Sir George Murray is therefore induced to bring the circumstances respecting the Prisoner under your notice, with the request that you will shew any indulgence to the unfortunate man of which Recommendation for indulgence.

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his conduct, since he has been in New South Wales, shall have rendered him deserving, and which it may be in your power, consistently with the Regulations, to afford to him.

I am, &c.,
HORACE TWISS.

[Enclosure.]

MR. F. VAN LAHSBUSCH TO RIGHT HON. W. HUSKISSON.

Right Honorable Sir, New South Wales, 13 March, 1828.

Petition of F. van Lahsbusch for ticket of leave.

If an unfortunate Man dare to approach your exalted person, permit me then, Right Honble. Sir, the honor of doing so thro' the kind medium of His Excellency the Embassador of His Majesty the King of Prussia, whose natural subject I am, Craving at your benevolent heart that charitable commiseration of my circumstances which by a short recital of the same Your Rt. Honble. might deem fit.

In the year 1809, I entered His Majesty's Service as an Ensign in the 60th Regt., and joined the Army in Portugal under the command of His Grace the Duke of Wellington; after the battle of Busano, I was promoted to a Lieutenant, returned to England, and went out to the Cape of Good Hope in the 1st Battln. of that Regt. After the General Peace, I remained at the Cape, where, in 1825, I married a poor Orphan Child a native of that Settlement then only 16 years of age; she had two younger sisters equally poor whom I took under my protection, they having no friends or relations to save them from want. My half pay being insufficient to maintain us four, I formed the Resolution to leave the Cape and embarked on the 1st June, 1826, on board a Vessel, called the Nautilus, bound to the Isle of France, where I had hopes of getting a small situation under Government; otherwise it was decreed in Heaven. Not having had sufficient means to defray the expense for such a Journey, I obtained from a person in Cape Town the Loan of £25. I imagined that Person to be my friend; being at Anchor in Table Bay and waiting for a fair wind, a violent Hurricane from the N. West came up, we lost all our Anchors, and in the night from the 4 hr. to the 5 hr. wrecked. Myself and family escaped the fury of the waves by a rope, by which we got on Shore, but lost all our little property; but alas! this was only a prelude to what followed.

The friend above stated, on hearing of my disaster, presented his note to me for payment; how was I, how could I pay him in the destitute state I was then in; I begged, I entreated for patience, but nothing would satisfy the wretch, but the sacrifice of my unfortunate young wife; that was more Right honble. Sir than I could brook; despair became master of Reason; I saw my unfortunate young wife and family on one side, an open Prison on the other; I took with a trembling hand some paper and Ink and committed a Forgery of £25, which I discounted; but, cold reason returning after I had committed the fatal Act, and only one hour having elapsed, I took the Money so ill begotten and went to take my note up again but too late, it was already in the Hands of the Fiscal. I was tried and, although in my 54 year, I was condemned to 14 years' transportation.

The goodness of his honor the Acting Governor of the Cape, Major General Bourke, permitted my poor wife to proceed with me on board a prison ship, which then touched at the Cape called the

Mariner, Captain Moresworthy, and she came on board the day after me with a few Articles of wearing Apparel, which Benevolent people had assisted her with, and her two Orphan Sisters; Speechless I stood thanking the Almighty for his goodness in not depriving me of my dear wife; but short was my Joy; the Captain came on Deck and told me I must send my wife on Shore again to have the word permission in the written Document, which she had received from His Honor the Acting Governor, changed to the word Order; she went to execute his injunction, but was hardly out of sight, when he got up the Anchor and sailed out. Unfortunate, helpless young wife, her all came away with me, and three innocent Beings are left without father, Mother, or friends to expiate crimes I committed.

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Petition of F. van Lahsbusch for ticket of leave.

If then, Rt. Honble. Sir, the above Statement should have made an impression on your benevolent heart, permit me then most submissively to appeal to your Rt. Honble. as a father, Husband, and Christian, and to intreat that, if no other, the indulgence of a Ticket might be granted to me to enable me as much as it lays in my power with the blessing of God by industry and honesty to support the innocent victims of my faults. May the Almighty then grant the petition of a sincere repentant Sinner, and that of the innocent Beings to shower his Blessings upon your sacred head, and to give your Rt. Honble. a long and prosperous life.

F. van Lahsbusch.

Governor Darling to Sir George Murray.

(Despatch No. 62, per ship Vesper.)

Sir, Government House, 21st May, 1829.

The expected arrival of His Majesty's Warrant for appointing a Legislative Council under the Act of the 9th year of His Majesty's Reign, ch. 83d, has prevented my acknowledging before this, the receipt of your two Despatches of the 31st of July, 1828, one marked "Separate," the other Numbered 17, transmitting the Act of Parliament above referred to.

Despatches acknowledged.

I have now the honor to acquaint you that those despatches were received here on the 24th of December last, but that the Warrant* appointing a Legislative Council has not yet arrived.

Non-arrival of warrant for legislative council.

I have, &c.,

Ra. Darling.

Under Secretary Twiss to Governor Darling.

(Despatch per ship John.)

Sir, Downing Street, 22d May, 1829.

22 May.

I am directed to acquaint you that Mr. R. Therry, who, as you were informed by Sir George Murray's Dispatch of the 20th Ultimo, has been appointed to the Office of Commissioner of the Court of Requests in New South Wales, has received an advance of £133 6s. 8d. on account of his Salary.

Advance of salary to R. Therry.

I have, &c.,

Horace Twiss.

* Note 221.

1829.
22 May.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 63, per ship Vesper; acknowledged by Sir George Murray, 10th December, 1829.)

Sir, Government House, 22nd May, 1829.

Transmission of report.

I request your attention to the accompanying Copy of a Report of the Surgeon at the head of the Hospital Staff with respect to the inferior description of Wine which is put on board the Convict Ships for the use of the Sick.

I have, &c.,
RA. DARLING.

[Enclosure.]

REPORT BY SURGEON.

Report on wine in commissariat stores.

THIS is to certify that, in consequence of a representation of Colonial Assistant Surgeon Cooper, I examined the Wine in His Majesty's General Provision Store, Sydney, and I am of opinion that it is not of a quality sufficiently good to issue to sick people, and I would recommend that Wine of a better description should be procured for their use.

It was stated by Mr. Wilson C.C. in charge that it is the same wine usually put on board Convict Ships and received by him as what remains after the Voyage. What I have seen, however, is of so very inferior a quality as to be quite unfit for the purpose for which it is given out.

DON. MACLEOD, Surgeon to the Forces.
His Majesty's General Provision Stores, Sydney, 4th May, 1829.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 112, per ship John.)

23 May.

Sir, Downing Street, 23 May, 1829.

Proposed transportation of convict from Barbadoes.

A Convict named "Richard Newton" is now at Barbadoes, under Instructions to be transported at the option of the Assembly of that Island, who are to defray the expense, either to Bermuda, New South Wales or Van Diemen's Land; and, if their choice should fall upon the Colony under your Government, you will be pleased to give orders for the reception of Richard Newton.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 64, per ship Vesper; acknowledged by Sir George Murray, 11th December, 1829.)

Sir, Government House, 23rd May, 1829.

Application by A. M. Baxter to purchase land.

I have the honor to refer to you the application of Mr. Attorney General Baxter to be allowed to purchase 8,840 Acres of Land.

1829. 23 May.

Application by A. M. Baxter to purchase land.

The circumstances are as follows:—Mr. Baxter, soon after his arrival, received the usual Grant of 2,560 Acres. Some time after this, he applied for permission to purchase a further quantity, when I informed him personally that Instructions, which I had recently received from you, deprived me of the power of determining on the applications of the Civil Officers for Land, and the enclosed correspondence then took place.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MR. A. M. BAXTER TO COLONIAL SECRETARY MACLEAY.

Sir, Apsley Lodge, 8th September, 1828.

I have the honor to transmit with this letter an Application to His Excellency for permission to be allowed to rent 5,000 Acres of Land with a view to eventual purchase.

Reasons for application.

The grant given me by His Excellency, I find is too small for my Cattle and Sheep, especially too, as it is constantly liable to the Encroachments of neighbouring Stockmen, who, without any right or Authority from Government, are depasturing large Herds of Cattle and Sheep in the immediate neighbourhood of my Grant.

Should the Governor comply with my request, I am desirous of renting Land (although of an inferior quality) immediately adjoining my Grant, as Mr. Chapman, who has intimated his selection of two Sections near me, has agreed (for £70 a Year and a House etc.) to Superintend my Farm and Stock, etc. I have, &c.,

A. M. BAXTER.

[Sub-enclosure.]

Application by A. M. Baxter to rent land with view to purchase.

APPLICATION* of *Alexander McDuff Baxter* of *Sydney* for Permission to Rent Land with a view to eventual Purchase.

Sir, Dated .....

I beg you will be pleased to submit to His Excellency the GOVERNOR my request that I may be permitted to rent, until the same can be put up to Sale *(5,000) Five Thousand* Acres of Land, under the Regulations contained in the Government Order, No. 35, dated 5th September, 1826. I am now in Possession of Land to the following extent, viz.:—

By Grant	*2,560* Acres
By Purchase of the Crown	——
By Reserve	——
By Private Purchase, Gift or Inheritance	——
Total	*2,560*

of which —— Acres are cleared.

I also possess Live Stock as under, viz.:—

Horses	*2* Head.
Horned Cattle	*140*
Sheep	*500*

And available Money Capital to the Amount of *Five Hundred Pounds.*

I *possess* Buildings on the Lands, of the following description and value, viz.:—*A Hut and Stock Yard of the usual Value.*

* Note 222.

1829. 23 May.

Application by A. M. Baxter to rent land with view to purchase.

I have completed —— Miles of Fence, and have employed and maintained, during the last year, *Ten* convict and *part of it, two* free Servants, and have otherwise fully complied with the conditions annexed to the above Lands.

I have the honor to be, Sir,
Your obedient humble Servant,
A. M. Baxter.

[Enclosure No. 2.]

Mr. A. M. Baxter to Colonial Secretary Macleay.

Sir, Apsley Lodge, Sydney, 7th November, 1828.

Request for reserve of sections with view to purchase.

Being desirous to purchase six sections of Land adjoining two sides of that, which I have reported as my selection on Williams River, I have the honor to request that you will be so good as to move the Governor to order these Sections to be reserved, until they can be put up for sale, and further that you will obtain for me, in that case, His Excellency's permission to bid for them.

The description of the sections is as follows:—

Two Sections contiguous to the Eastern Boundary; the two Sections adjoining the Northern Boundary; the Section between these at the North East of the Land, I have already selected as a Grant; and the Section adjoining the South East corner of the same selection, the whole lying and being situate in one continuous tract at some distance from Williams River.

I have, &c.,
Alexr. M. Baxter.

[Enclosure No. 3.]

Colonial Secretary Macleay to Mr. A. M. Baxter.

Sir, Colonial Secretary's Office, 31st January, 1829.

Refusal of requests.

With reference to your application of 8th September, 1828, for permission to rent with a view to purchase (5,000) Five Thousand Acres of Land, and also to that of the seventh of November, for the purchase of (3,840) Three Thousand Eight Hundred and Forty Acres, adjoining your Land on Williams River, I am directed by the Governor to inform you that it is not in His Excellency's power to authorise your receiving any more Land than you are already in possession of, But that, if you wish it, His Excellency will refer your application to the Secretary of State.

I have, &c.,
Alexr. McLeay.

[Enclosure No. 4.]

Mr. A. M. Baxter to Colonial Secretary Macleay.

Sir, Apsley Lodge, Sydney, 30th April, 1829.

Delay in receipt of letter.

It was only the other day in a conversation I had with you on the subject of Land that I learnt that a Letter, bearing date the 31st of January last, had been forwarded to me by the desire of His Excellency the Governor, in reply to two prior Applications made by me of date 28th September and 7th November, in which His Excellency states that, by a late Regulation, I cannot be allowed to become a purchaser of Land, in addition to that which His Excellency has been pleased to grant me on the Williams River. I beg to state, for the information of His Excellency, that the Letter

alluded to never reached me until two Months after it was recorded in your Office, and that I conceive this to be a solitary instance, in which any similar delay has occurred in the transmission of any communication from the Colonial Secretary's Office to my Chambers. 1829. 23 May.

As His Excellency grounds his refusal to allow me to purchase a few Sections of Land adjoining my Grant on recent Orders* from His Majesty's Secretary of State for the Colonies, which prohibits Civil Officers from having Grants of Land, I beg to submit for His Excellency's consideration that such an order cannot be intended to affect myself on several grounds. Reasons for non-application of orders.

1. Because no order can be retroactive.

2ndly. That, in my case, the object which the Home Government had in contemplation has already been frustrated; and

Lastly. That, as the consequences would be extremely injurious to me, I have a strong claim to urge them in my behalf in a equitable point of view.

1st. No Law or Order can be retroactive, unless it can be shewn on the face of it that there is some necessity for its adoption. Orders non-retrospective.

In my case, there can be no such necessity, from my having already obtained a Grant of 2,560 Acres of Land from His Excellency, over which I have placed an experienced Overseer with an Income of £70 a year, who can as easily Superintend an Estate of 5,000 Acres, as he can the Grant of which he has now the Charge (on which subject I beg the benefit of your Opinion, founded on an intimate acquaintance with the affairs of the Colony).

2ndly. That, supposing the retroactive Order was intended by His Majesty's Secretary of State to apply to all Civil Officers, in my case the effect of it would be frustrated by the grant which I have already received; and on which, on Erections, etc., I have expended £500, a Sum which would be lost to me, were not an additional portion of Land allowed, having built a Dwelling House and dairy, erected Stock Yards and Fences, etc., under the impression that I had, in common with every other Settler, the right to Rent with a view to purchase a few Sections adjoining my Grant. Indeed the Local peculiarity of Situation of my Grant, situated in an Amphitheatre entirely composed of grazing Land, would, were it approached by any other person as a Neighbour, render it of little value from the ruinous expense that would be Incurred in erecting Boundary Fences. In corroboration of this fact, I would appeal to Mr. Hanley and Mr. Townson, whose Farms adjoins, and who have already stated that, without a few additional Sections, the Grant, which I now occupy, would be of very little value. Improvements effected because of supposed right to purchase.

Lastly. With regard to a claim in Equity which I have on His Majesty's Government, I may remark that my Overseer, who is an extremely skilful person, has done more to make Improvements on my Grant during the short space I have held it than any other Settler in the Colony. Equity of claim to purchase.

With regard to Stock, I think I may make a strong appeal to His Excellency in reference to the Situation in which I am placed, owing to my support of a Civil Officer in high estimation with the Governor, whose affairs have become deranged, and for whom, in consequence, I have been forced to incur a pecuniary obligation of £550 at a very high rate of interest, for which the only security I could receive for the amount was derived from the purchase of his Horses and Cattle at a high price and at a time too, when they were unsaleable. Result of financial assistance to civil officer.

* Note 223.

1829. 23 May.

Former reference to claim.

I have further the honor to state that, in addition to my Application by the Letters already mentioned, several Months prior to the arrival of the said Order from home, I furnished, nearly about the same time, Mr. de la Condamine with a sketch of the Country adjoining my Grant, with a written request that, when the Governor (then at Parramatta) should take into his consideration the claims of the various Applicants for Land, His Excellency should be informed of the peculiar Situation of my Grant.

Land reserved for F. N. Rossi.

I have *positively* the honor to state that, at the very same time, a chart of the District adjoining his Grant of Land was presented to the Private Secretary by Captain Rossi, and that it is within my knowledge that the request has been allowed, and that Captain Rossi has been permitted to retain four Sections with a view to purchase.

Decision of R. Darling.

I cannot therefore pursuade myself that His Excellency did not dicide *virtually* in favor of my Application *prior* to the arrival of the Order from the Secretary of State; still less, that he should suffer that one Man shall succeed and another fail, merely through official delay or irregularity: And I therefore confidently hope that, when my case, *which is different from all others*, is clearly understood by the Governor, He will, with his wonted impartiality, allow me to bid for the purchase of the Land and to occupy it, as it adjoins my own, according to the Regulations in that respect. I beg you will favour me with an early reply. I have, &c.,

A. M. Baxter.

[Enclosure No. 5.]

Colonial Secretary Macleay to Mr. A. M. Baxter.

Sir, Colonial Secretary's Office, 16th May, 1829.

Letter acknowledged.

I have duly received and submitted to the Governor your Letter of the 30th Ultimo, referring to mine of the 31st January, in which you were apprised that it was not in His Excellency's power to authorise your receiving more Land than you were already in possession of.

In reply, I am directed to inform you that, as His Excellency is not authorised to exercise any discretion in this case, it would be unavailing to enter into the arguments you have made use of, but to observe, with reference to the case of Captain Rossi, to which you allude, that the authority for purchasing Land was granted to that Officer *before* the arrival of the Instructions not to allow Land to the Civil Officers of the Government.

Application to be transmitted to England.

His Excellency will however forward your application to the Secretary of State, who alone under present circumstances can comply with it. I have, &c.,

Alexr. McLeay.

Sir George Murray to Governor Darling.

(Despatch No. 113, per ship Guilford.)

25 May.

Sir, Downing Street, 25th May, 1829.

Despatches acknowledged.

I have had the honor to receive and to lay before the King your despatches of the dates and numbers enumerated in the margin.*

* *Marginal note.*—No. 15, 11th Febv., 1828; No. 49, 27th March, 1828; No. 54, 30 March, 1828; No. 60, 31 March, 1828.

1829.
25 May.

The importance of the subjects to which these Despatches relate, added to the weight of other more pressing business, has occasioned a delay, which it was out of my power to avoid in conveying to you His Majesty's Command in answer to them.

Delay in reply to despatches.

In considering the different questions upon which you have solicited Instructions, it may perhaps be convenient that I should notice them in the order in which you have brought them forward.

1st. With regard to the Stipends and other means for the support of the Clergy.

The Archdeacon and yourself agree in thinking that the Clergy are not adequately provided for, and, although you differ as to the mode in which it may be proper to increase their remuneration, your views in principle appear to be nearly the same. The Archdeacon proposes* either that the Income of the Clergy should be regulated by a scale founded on length of Service, combined with the number of Souls in the Parish of which the incumbent has the charge, or that every new Chaplain should commence with a Salary of £400, receiving a Grant of 1,280 Acres at the end of five years, and another Grant to the same extent at the end of ten years, together with an increase of £200 to his Salary.

Proposals *re* stipends of clergy by Revd. T. H. Scott;

To both of these Schemes, it appears that you object; to the first, as being too complicated, besides other inconsistencies which you point out; to the second, because you think that the Clergy should not hold lands; and you substitute a plan by which every Chaplain should commence with a Salary of £400 a year, to be increased by the addition of £100 at the end of seven years, and by the addition of another £100 at the end of fifteen years. You propose also, as the above scale of remuneration would not enable the Clergy to provide for their families, that their Children should receive Grants of land from the Crown in the following proportion, viz., three square Miles or 1,920 acres to each of the sons on their attaining the age of 19, and binding themselves to settle on the land, and two square Miles or 1,280 acres to each of the daughters, as a portion on their attaining the age of 18; thus rendering the Men a respectable class of Settlers, and affording to the women a better prospect of marrying suitably to their condition in life.

and by R. Darling.

The objection, which I entertain to the Archdeacon's scheme, so far at least as relates to the increase of Stipends of the Clergy, equally applies to that which you have submitted, the result of both of them being to cause a very heavy annual charge, in addition to that already incurred by the Government, for the support of the Ecclesiastical Establishment in New South Wales; and, although it may be said, in answer to any objection of this

Objection to proposals for financial reasons.

 * Note 224.

1829. 25 May.

nature, that the Revenues, to be derived from the lands which have been set apart for the maintenance of the Church, will be adequate to bear all such expenses, yet it is but too evident, from the information which has been received upon this subject, that the funds, required for purposes of this nature, must for the present (indeed for a long time to come) be supplied out of the Colonial Revenues, although nominally they may be charged to a separate account.

Objection to proposals for financial reasons.

Necessity for adequate stipends.

It is certainly much to be desired that every Clergyman should have such means of support for himself and his family, as may place him above the necessity of contracting pecuniary obligations, and may enable him to keep up an appearance becoming his Station. But, if their Stipends were advanced, it would not be possible to maintain the same number of Clergymen, without entailing upon the Colony much additional expense. So long therefore as the Church funds continue inadequate to support the whole expense of the Establishment, and also to provide for the additional charge which the augmentation proposed to the Stipends of the Clergy would occasion, I fear no increase can be made to their present Incomes, and it would be desirable that you should abstain from encouraging any expectations of that nature. In all subsequent Vacancies which may arise, I shall take care to explain to the persons, who may be selected to fill them, the extent of the advantages to which in addition to their Salaries, they will have to look on accepting such situations, which advantages I shall now proceed to enumerate.

Inability to authorise increases.

Parsonage, glebe and land grant to be provided.

It is fitting that each Clergyman should have the advantage of a decent Parsonage House to inhabit, a sufficient portion of land to serve as Glebe, and a further allotment of land as a future provision for his Widow, and such other Members of his family, as shall not, at the time of his decease, have become independent of his support.

Opinion in favour of land grants to clergy.

The suggestions* of the Archdeacon, relative to Grants of land to the Clergy according to their length of Service, for the support of their families after their death, do not appear to me liable to all the objections which you seem to entertain, nor to those which, I am aware, my Predecessors have expressed also upon the subject. I allow that it may be difficult to prevent such a measure from interfering in some instances with the discharge of the Clergyman's duty by diverting his attention from Spiritual concerns; but, on the other hand, by affording him the means of advantageously providing for those who are dependent upon him for support, it would do much to relieve his mind from that distraction which pecuniary difficulties inevitably occasion. So far, therefore, as regards the principle of granting Lands to the

* Note 224.

Clergy for the purpose above mentioned, I do not object; but, as I observe that each of the Clergymen of New South Wales has relinquished to the Corporation for an equivalent in Money, at the rate of £100 a year, the lands which it was customary to assign to him as Glebe, with the exception of 20 acres immediately adjoining their respective Churches, I cannot agree to authorise, in addition to the land on account of which that compensation has been given by the Corporation, the further Grants recommended by the Archdeacon, excepting in the case of those Clergymen, who may prefer to receive the proposed Grants, relinquishing the Allowance which they now receive. 1829. 25 May. Conditions for land grants to clergy.

With the grant thus contemplated for the immediate advantage of the Clergyman himself and for the support of his Widow and unmarried daughters, and with the further Grants, which you have proposed, to the sons on their respectively reaching the age of 19, and to the Daughters on their Marriages, the Clergy of New South Wales will be placed in as easy circumstances as their station requires. Grants to children of clergy.

You will understand that it is not my intention, under any arrangement respecting the Lands to be given to the Clergy, to interfere with the small Glebes (in any case not to exceed 40 acres) which have been allotted to them by the Corporation; and, if this land or parts of it be judiciously selected, adjoining to his house, I cannot doubt that it will become in time a source of profit to the Incumbent. Instructions *re* glebes.

2ndly. The present state of the Church and School Establishments is the next subject for consideration.

In the further Reports* which you have transmitted from the Archdeacon, he is anxious to impress upon His Majesty's Government the wants of the Colony in those respects; but I am sorry to perceive that they do not very clearly point out the means of defraying the expense which will be occasioned by the measures which he proposes; for I cannot but entertain considerable doubts whether the disposing by public sale of such portions of the Church and School Lands, as may obtain the readiest purchasers, would prove so far productive as to supply the necessary funds for that purpose. Church and school establishments.

I am fully aware of the more than common importance of religious instruction in Colonies so peculiarly circumstanced as the Australian Provinces; but, since you represent not only that the Churches are ill-attended, but that a want of a proper sense of Religion is very generally manifested by the Inhabitants, this unhappy state of things cannot be attributed either to the deficiency of the Clergy or to the want of proper places of Worship. Want of religious feeling in colony.

* Note 224.

1829. 25 May.

Religious feeling in Tasmania.

I am glad to find, by the reports which I have received from the Lieutt. Governor of Van Diemen's Land, that a different disposition prevails amongst the inhabitants of that Island, and that offers have been made by them to provide out of their own means towards the building of places of Worship, where the expense could not be met by the resources at the disposal of the local Government.

Proposed subsidies for chapels and stipends.

Should the Inhabitants of New South Wales evince a disposition to come forward in like manner, and agree to contribute a moiety of the expense, I should be ready to sanction the construction of an additional number of Chapels; and, if any cases should occur where the services of a Chaplain may be so earnestly required, as to induce the Inhabitants to contribute towards his support, I should not be unwilling to sanction the payment of an equal sum from the Colonial Fund for the same object.

Authority for erection of parsonages;

Observing by the Archdeacon's report that three Parsonage Houses are immediately required, viz., at Medway, Port Macquarie, and Brisbane Town, the expense of which is estimated at £500 each house, you will consider yourself authorised, with the advice of the Council, to direct the construction of these Buildings, provided accommodation cannot be conveniently provided for the Incumbents by any other means; and, with a view to eventual economy, it would be expedient, so soon as circumstances will addmit of it, to adopt the Archdeacon's suggestion of erecting Houses upon the same scale and at a similar expense for the Clergy of the Established Church, for whom Lodgings at a very extravagant rate are at present provided. There is no doubt that a very considerable saving would accrue from such a measure, although I am aware that, from the inconvenience of advancing funds at the present moment, this object can only be effected by a gradual arrangement.

I perceive by the Report which you have sent home, made by the Archdeacon, that nine additional School Houses, besides those annually rented, are required; but in this, as in the other cases, I cannot hold out any expectation of assistance to the extent which is recommended. It appears to me that, if six additional School Houses be constructed, sufficient means for the reception of Scholars will be provided, and you are authorised to commence their construction upon the scale of expense, which has been suggested by the Archdeacon, and thus to put an end, as soon as possible, to the practice of hiring rooms, etc., for Schools, a practice equally objectionable with that of hiring houses for the accommodation of the Clergy.

and of schools.

The Archdeacon has not alluded (as he has done in the report* which he sent home from Van Diemen's Land) to the system of

* Note 225.

1829. 25 May.

employing Convicts in the superintendance of the Schools. I conclude that, in the absence of a better class of Teachers, it is as difficult to dispense with their services at New South Wales as in the other Colony; and, although great doubts may be entertained as to the propriety of the practice of placing such persons in those situations, yet, in some respects, it may not be without advantage, as it may lead the Convict to strive to recommend himself by good conduct for employment of this description. This is a point, however, which I must leave to be determined by you, according to the opinion which may be entertained upon the spot, rather than upon any abstract ideas which may exist in this Country.

Employment of convicts as schoolmasters.

In consequence of the claims, which have been advanced by the Corporation for the management of the Church and School Estates at New South Wales, I have not deemed it advisable to recommend to His Majesty to create in Van Diemen's Land a Body Corporate similar to that established in New South Wales; and I have also thought it right to counsel His Majesty to revoke His Letters Patent, by which the Corporation has been erected in the latter Colony.

Decision against church and school corporation in Tasmania.

Proposed revocation of letters patent.

It will therefore become a very important part of your duty, as soon as this measure shall have been carried into effect, to attend to this Branch of the Public Service. It will be desirable that you should then proceed to dispose by sale of such portion of the lands, set apart for the use of the Clergy and Schools of the Colony, as it shall be prudent to part with at once, and which you may conceive will meet with the readiest purchasers, letting such portion of the remainder upon Leases, as can be advantageously disposed of in that manner. But, looking forward to the enhanced value, which such lands will in a few years attain, as well as to the future necessities of the Colony in regard to its Establishments for Religion and Education, I have to desire that you will not, without further Instructions, dispose by sale of a greater portion of the land, which has been reserved for such purposes than one fourth of the whole. The profits of such sales, as well as the Rents, will of course be placed in the hands of the Colonial Treasurer, and will be set apart for the purposes of the Clergy and School Establishments under the Title of the Clergy and School Fund.

Sale and lease of clergy and school estates.

Limitation of area for sale.

Clergy and school fund to be established.

With regard to any advances, which may have been made out of the Colonial Fund for the use of the Clergy and the School Establishment, or any expense, which may have been incurred by the Colonial Government in estimating the labour of the Convicts employed in the erection of Churches, Schools, or Parsonage Houses, I am disposed to think that such advances should

Advances and charges to be written off.

1829. 25 May.

not be brought to account as a debt against the Church Funds, although of course all expenses of that nature to be incurred hereafter will appear as a charge against them.

Management of orphan schools.

Upon the termination of the functions of the Corporation, it will be also necessary that you should adopt the course which you may consider the most advisable for the due superintendance of the Male and Female Orphan School by the establishment of Committees, selected from those persons in the Colony whom you may consider the best fitted from their characters and habits to undertake that charge.

Clergy's church fees to be retained.

In the report* which the Archdeacon has addressed to the Lieutenant Governor of Van Diemen's Land, he has suggested that the fees should be abolished, which the Clergymen at present receive for Church duties. I do not, however, see any good reason for so abolishing them either at Van Diemen's Land or at New South Wales, as they may, I apprehend, be adjusted without much difficulty, in cases where the Limits of the Parish may be matter of dispute.

Claims by corporation, *re* glebe lands:

I next come to consider the claims* which have been set up by the Corporation, and which may be reduced to three in number.

1st. Whether the Glebe Lands, which it was directed should be vested in the Corporation, together with all the Lands or Portions of Revenue which had previously been appropriated to the support of the Orphan Schools, are to be considered as forming part of the whole seventh mentioned in the Instructions, or whether the Corporation is to hold them in addition?

re customs duties;

2dly. Whether one eighth of the Customs duties, which used to be appropriated to the Orphan Schools and which, by the Letters Patent, is considered by the Corporation to pass to them, should be carried to that account, the eighth being found to be far more than sufficient for the maintenance of those Schools?

and *re* payment of claims of J. Busby.

3dly. Whether the Corporation, who succeeded to the management of the Male Orphan School, are to be made liable to the payment of certain arrears, amounting to £1,033, claimed by Mr. Busby upon the faith of an arrangement entered into with him by Sir Thomas Brisbane, by which Mr. Busby undertook to instruct the boys in the cultivation of the Vine, receiving a certain proportion of the produce of the farm?

Removal of difficulties by revocation of letters patent.

Having already apprised you, in another part of this despatch, of my intention to recommend to His Majesty to annul the powers, which you were directed by your Additional Instructions to vest in the Corporation of Letters Patent issued in the Colony (which measure will remove all difficulties arising out of the foregoing questions), it will be no longer necessary for me to enter into any particular detail upon the points to which they refer,

* Note 225.

1829. 25 May.

although it may be useful to furnish you, for your own guidance, with the opinion entertained generally by His Majesty's Government upon those subjects.

Intentions *re* disposal of glebe lands;

It appears to me evident that, at the time the arrangement, under which the Letters Patent were issued, took place, it was intended that the Corporation, should, in addition to the seventh of the whole Territory, have the exclusive management and control of the Glebe Lands and such other Estates as had previously been appropriated for the support of any Institutions which were henceforward to be placed under the superintendance of the Corporation.

and *re* customs duties.

But I cannot perceive any ground for their claims to any portion of the eighth of the Customs duties, which may exceed the sum actually required for the maintenance of the Orphan Schools, it being the intention of His Majesty merely to vest in the hands of the Corporation the appropriation of such funds as were necessary to defray the expenses of those Establishments. The words, which relate to this subject, are as follows:—And it is Our Will and We do further declare that "all such parts of His Majesty's Revenues arising within Our said Colony, as hath by any such Governor been appropriated and set apart for the education of Youth therein, shall be and the same are hereby vested in and placed under the management, care and superintendance of the said Corporation, to be by them applied and disposed of in aid of the funds aforesaid towards the Education of Youth in the said Colony in the principles of the Established Church." Now, although an eighth of the Customs has since the year 1817 been appropriated for the mutual benefit of the Male as well as Female Orphans, it must be recollected that the *original* portion, reserved for this purpose, was a *fourth*; and that this reduction took place in consequence of the Institution not requiring so large an appropriation. It would also appear, from the subsequent augmentation of the Revenues, that one eighth of the sum derivable from the Customs is more than adequate to meet the expenses for which the Grant was given. I see, therefore, nothing to prevent His Majesty's Government from still further reducing the amount, a right, however, which would not be possessed, were the claims advanced by the Corporation to be admitted.

Moneys for support of orphan schools only.

Under these circumstances, I cannot consent to give the Corporation any sum which may exceed that required for the support of the Male and Female Orphan Schools, nor do I think that the Corporation would be authorised, upon finding that the funds available for this Charity exceeded in amount those which were

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necessary, to *augment* the Establishment of the Schools in proportion to the excess.

Liability of corporation for claim of J. Busby.

With regard to Mr. Busby's claim, there is no doubt that the Corporation were bound to satisfy his demand, even had they not, by the fact of their having submitted the case for arbitration, acknowledged their liability to the amount. But, as the Corporation appear at present, to have no funds (or if they had, the whole of such funds would soon revert to the Colonial Government, to be accounted for under a different system of management), you will consider yourself authorised to satisfy Mr. Busby's claim to the amount of the award; taking care, however, to place the sum as a charge against the Church and School Funds, to be reimbursed to the Colonial Government whenever sufficient means may have been realised for that purpose.

Claim to be settled.

I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.
(Despatch No. 65, per ship Vesper.)

Sir, Government House, 25th May, 1829.

Acceptance of reprimand *re* disputes with F. Forbes.

I intimated in my Despatch, No. 44,* when I had the honor of acknowledging the receipt of your's of the 30th August last, No. 26, my desire to offer a few observations on some of the points alluded to, which appeared to me not to be sufficiently understood and to require explanation.

It has, however, since occurred to me, having more fully considered the view taken of the several matters to which your Despatch refers, that any observations I might offer would be unavailing and that it is my duty, as the most decorous and respectful course under present circumstances, to bow with deference to your decision and to abstain from intruding myself further on your notice.

I have, &c.,
Ra. Darling.

Sir George Murray to Governor Darling.
(Despatch No. 114, per ship Guilford; acknowledged by Governor Darling, 11th January, 1830.)

26 May.

Sir, Downing Street, 26th May, 1829.

Despatch acknowledged.

I have the honor to acknowledge the receipt of your despatch of the 14th of August, reporting that, in consequence of the resignation of Lieuts. Welford and Hughes, you had been under the necessity of appointing Major Lockyer, lately retired from the Military Service, to the situation of Principal Surveyor of Roads and Bridges, and that you had assigned to him a Salary of £600 a year.

* Note 226.

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My Predecessor, in his reply to your despatch No. 48 of the 8th of April, 1827, having fixed the Salary of this Office at £500 a year, and Major Lockyer having declined to undertake the duty at a lower rate than £600, you will pay his Salary at the latter rate up to the time of your receiving this dispatch, and then immediately relieve him from the Office, which is thenceforth to be abolished. The duties of it are hereafter to be executed by Assistants of the Surveyor General, to whose Department you will attach it. For this purpose two additional Assistants will immediately be sent out from this Country; one of whom will be employed in the services now performed by Major Lockyer, and the other will supersede the new Assistant, whom you state that you have appointed, and who will understand that his employment will be only temporary.

Payment of salary to E. Lockyer.

Abolition of office of surveyor of roads and bridges.

I am, &c.,
G. Murray.

Sir George Murray to Governor Darling.
(Despatch No. 115, per ship Guilford.)

Sir, Downing Street, 27th May, 1829. 27 May.

Mr. Hayward, whose appointment to the situation of Assistant Surveyor at New South Wales was announced to you in my despatch of the 24th December, 1828, having obtained a more desirable situation in this Country, has declined to proceed to that Colony; and I have in consequence appointed Mr. Henry Butler to the vacancy which Mr. Hayward's retirement has occasioned.

Appointment refused by G. Hayward and given to H. Butler.

I am, &c.,
G. Murray.

Governor Darling to Sir George Murray.
(Despatch No. 66, per ship Vesper.)

Sir, Government House, 28th May, 1829. 28 May.

Having apprised you in my Despatch of the 20th April last, marked "Separate," of my intention of bringing under the consideration of the Executive Council Mr. Wentworth's Letter, which I had just then received, containing Charges against me for the Proceedings which took place in the case of "Sudds and Thompson," two Soldiers of the 57th Regiment, I have now the honor to inform you that the subject was referred accordingly to the Council, and I beg to transmit to you a Copy of the Minute of Proceedings which took place.

Reference of impeachment to executive council.

2. I referred the matter to the Council, conceiving it the most proper course, and, as the Charges related to myself personally, I considered it right to abstain from attending during the Proceedings.

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3. The Allegations or facts charged are comprised under thirteen Heads. As the course the least troublesome to you in considering the facts represented by Mr. Wentworth, I must request you to refer to the testimony given before the Council, which will convince you of the total falsity of Mr. Wentworth's Statement, as to the Weight, Construction and torturing effects of the Chains; as also of the utter groundlessness of the Charges, which he has ventured to prefer against the Government, of having fraudulently fabricated other Chains and interfered to prevent an Inquest being held on "Sudds'" Body.

Evidence in denial of charges by W. C. Wentworth.

4. Having referred you to the Proceedings of the Council in refutation of the facts, I shall content myself with bringing under your notice a few only of the most palpable Contradictions and inconsistencies, which appear throughout Mr. Wentworth's Statement; and, in doing so, I shall observe the Order which he has pursued in his Letter.

Alleged illegality of conviction of J. Sudds and P. Thompson;

5. It is stated that "Sudds and Thompson" were improperly convicted of Larceny. This is a point of which I do not presume to judge, nor am I in any degree responsible for it. The several Courts are answerable for their own Acts, and I have no doubt will be able to justify them. I shall therefore leave this question and the other points of Law, on which Mr. Wentworth has been so elaborate, to others to determine, conceiving, if commuting the Sentence of the Prisoners previously to their transportation was irregular, that it was at least of no material importance, as they might have been brought back the moment after their Arrival at Moreton Bay; so that they rather experienced indulgence than suffered extraordinary severity by not having been transported in the first instance. As to the "Ceremony," even the Opposition Papers of the day spoke in favor* of the measure as likely to check the disposition, which had manifested itself amongst the Troops.

and of commutation of sentence.

Soldiers sent to Norfolk island.

6. That Mr. Wentworth is as ignorant of the matters on which he presumes to write, as his Statement generally is inconsistent with truth, will be seen by his Remarks on the circumstance of the two Soldiers,† who were sent to Norfolk Island, which he states was illegal! These Men had maimed themselves for the purpose of getting rid of the Service. In order to defeat their object and prevent the evil effects of such an Example, I directed that they should not be discharged, but be sent to join a Detachment of their Regiment stationed at Norfolk Island, and be employed there as Pioneers, being no longer fit for duty as Soldiers, each having lost an Arm. This measure appears to have been completely effectual, no instance of a similar nature having since occurred, though three Years have elapsed; and it can easily be shewn that it was not uncommon before that time.

* Note 227. † Note 228.

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7. In consequence of the success of this measure, I was induced in the case of "Sudds and Thompson" to resort to the proceeding now under consideration, in the hope it would prove equally efficacious as the former, five Men of their Regiment alone having been convicted of *Larceny*. Military punishment of J. Sudds and P. Thompson.

8. It is stated that the Chains did not fit the Bodies of the Prisoners; that the Collar and the Basils were too tight. It will be seen, by the Minute of Council containing the Evidence, that Captain Robison, who is 3½ Inches taller than "Sudds" was, and is much stouter, being a man of robust Frame, not only put on the Chains, which "Sudds" wore, but contrary to what he, Captain Robison asserted, was able and did turn himself round when laying down at full length. Allegations *re* irons.

9. Mr. Wentworth asserts that "*Thompson*" became ill during the time he wore the Chains, a period of about ten days, and that his illness was occasioned by wearing them; whereas it appears by "Thompson's" own Statement, which will be found in the Appendix to Mr. Wentworth's Letter, that this illness, the effect of the Chains, as represented by Mr. Wentworth, did not commence until three Weeks after he had ceased wearing them, and that "Thompson's" Disorder was *Dysentery*, which is extremely common amongst all classes in this Colony. Illness of P. Thompson.

10. Mr. Wentworth admits that the Chains, exhibited at the Colonial Secretary's Office, did not exceed 13 lbs. 12 oz. But he expresses his Conviction that they were not the counterpart of those worn by Thompson, but were subsequently fabricated of lighter construction with the fraudulent intention of being shewn to Persons, as the real Chains worn by the Prisoner. That they were the real Chains, will be seen on reference to the Evidence and the Minute of Council. Denial of substitution of irons.

11. Mr. Wentworth attributes Captain Robison's having been brought to a Court Martial to the circumstance of his having tried on the Chains, and indulges in no very measured terms on the composition and proceedings of the Court. The Proceedings, which have been transmitted to the Judge Advocate General, will shew how far he is borne out in this; I can only say, when the charges were preferred against Captain Robison for his Repeated breach of Discipline, I had not heard of his having tried on the Chains, nor did I until some time after. Court-martial on R. Robison.

12. As to the System of "Espionage" which, Mr. Wentworth asserts, is established; If correct, it would be fully justified in the mind of every Man who has any knowledge of the Character of Mr. Wentworth, Captain Robison, and a few of their factious and seditious Associates, who are infinitely more dangerous to Alleged system of espionage.

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the peace and tranquillity of the Colony than the Convicted Felons against whom every one is naturally on his Guard.

Weight of chains.

13. Captain Robison states in his Letter to Mr. Wentworth, annexed to the Charges, that he conceives the Chains, which he tried on at Emu Plains, weighed *40 lbs.* or upwards. It will be seen by the Minute of Council that the identity of the Chains (weighing exactly 14 lbs. 6 oz.) produced to him before the Council, being in fact those he tried on, was satisfactorily established. It was by Candle light, he said, that he had examined them at Emu Plains!

Conduct of R. Robison.

14. I must here, Sir, request your attention more particularly to the Conduct of Captain Robison, who, being an Officer under my Command and in Arrest at the moment, appears to have become a party to Mr. Wentworth's proceedings. The Council confined his Examination to the mere identity of the Chains. He did not, however, satisfy himself with replying to the questions put to him, but protested generally against the proceedings of the Council, though in no respect implicated in the subject of Enquiry.

Unreliability of evidence by R Robison.

15. There is also another point, which you will not fail to remark in the Minute of Council as furnishing a pretty tolerable Criterion of the Credit which is due to Captain Robison's assertions. When under examination by the Council, he could not recollect that more than two or three Persons were present, whom he named, when he tried on the Chains at Emu Plains. I do not advert to this circumstance as being of importance. But, when questioned as to the fact of an Individual's having held out the Chains at Arms length on that occasion, it immediately brought to his mind that another Person had been present (the Individual above alluded to) and he requested to amend his Evidence; though extraordinary as it may appear, he could not recollect the circumstance of the Person he had then named having held out the Chains, who had observed that, from that faet, it was impossible they could weigh anything like what Captain Robison had mentioned.

Allegations *re* removal from P. Thompson and secretion of chains.

16. Mr. Wentworth states that the Chains were suddenly removed from "Thompson" by a Communication from Captain Dumaresq, on a pretence of "Thompson's" good conduct, and that they were secretly conveyed away by Captain Dumaresq in his Gig. It appears, by the Evidence taken before the Council, that there is not even a Shadow of foundation for these assertions. The Chains were removed in the usual manner by order of Captain Dumaresq, the Surveyor of Roads. If they were precipitately removed from "Thompson" in the month of December, 1826, in order to their being concealed from Travellers, as is

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stated, How does it happen that, according to Captain Robison's Statement, annexed to Mr. Wentworth's Letter, he should have tried them on at Emu Plains in the month of May or June following, and that no objection was made to his doing so or inspecting them? The Chains were in fact left at Emu Plains for several months, without any attempt to conceal them, and were afterwards sent away with other Spare Irons by the Overseer and not taken by Captain Dumaresq in his Gig, who, it appears, had, on the occasion alluded to, unluckily for Mr. Wentworth, gone to Emu Plains on *Horseback*.

Allegations *re* removal from P. Thompson and secretion of chains.

As to the removal of the Chains from "Thompson," it was not originally intended that they should have been worn after the Prisoners should leave Sydney. But, as the Opposition Papers made an Outery on the occasion, it was considered inexpedient to remove them at that moment; and, as "Thompson" afterwards communicated some information he had received when in Penrith Jail respecting the Cattle Stealers, who were very active at that period, advantage was taken of the circumstance to order the removal of his Chains.

17. It will be observed, in Mr. Wentworth's Letter, that he calls on me to produce the Chains while Captain Robison is here, as the only means of identifying them, or of the Government exculpating itself from the Charge of having had light Chains fabricated for the purpose of deceiving the Public. It no sooner, however, came to Mr. Wentworth's knowledge that this course had been pursued than he immediately sent in a formal protest against the very proceeding which he himself had suggested and repeatedly urged.

Demand for identification of chains.

Inconsistency of W. C. Wentworth.

18. He is equally consistent in protesting against extrajudicial Affidavits, the current price of which he has stated and, no doubt, has the best reason to be acquainted with, as he is in undervaluing the testimony of the Officers of Government, while he so artlessly requests your credence of the testimony of a convicted Felon, on which of course he himself implicitly relies.

19. He next proceeds to the consideration, whether the death of "Sudds" was occasioned by the punishment he underwent, and asserts whatever was necessary to establish that fact, might have been obtained by the examination of Dr. Mitchell, who, as he states, was not called before the Council in 1826, because I was aware of his opinion. Dr. Mitchell has now been examined, and it will be seen by his Evidence and that of Dr. Bowman, the Inspector of Hospitals, that the Chains could not have occasioned "Sudds'" death.

Cause of death of J. Sudds.

20. Mr. Wentworth admits that the Surgeons, who dissected Sudds' Body, could discover no marks or appearance whatever,

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Cause of death of J. Sudds.

from which they could ascertain the cause of his death. Is it possible then, if these chains were the Instruments of Torture which Mr. Wentworth would have them to be considered, and if by their Weight or pressure they occasioned or accelerated the death of "Sudds," that they would not have left some mark on his Body, either externally or internally, indicatory of their injurious effects?

Denial by R. Darling of knowledge of illness of J. Sudds;

21. Mr. Wentworth asserts that I was informed of "Sudds'" illness, and that he was removed from the Jail to the Hospital to avoid an Inquest being held on the Body. It is sufficient to say that the assertion is as false as it is base, and not unworthy of Mr. Wentworth.

and of request for assistance of W. C. Wentworth.

22. It is then stated that he received a Message from me through the Acting Attorney General, Mr. Moore, begging him to silence the "Australian" and requesting his Advice. This is not only improbable, as I had never consulted or even spoken to Mr. Wentworth on Business; but it is quite impossible that I ever could have thought of consulting him, much less asking his assistance. Is it likely I should request the interposition of an Individual with an Opposition Paper, who was himself threatening to impeach me? That you may see, Sir, how little scrupulous he is of misrepresenting matters, which are even within his own knowledge, I must beg of you to compare his Account of the nature of the Message, which he states he received through Mr. Moore, with Mr. Moore's own Relation of it in his Evidence, and the Letter, which he subsequently addressed to the Council. Mr. Wentworth asserts that I requested he would favor him with his Advice; whereas Mr. Moore distinctly states that the Message he delivered to Mr. Wentworth was to express my readiness to meet him in any way that could be arranged for bringing the matter forward, in order that it might at once be determined. In short, I was desirous of waiving any right as far as it could consistently be done; and I have no doubt Mr. Wentworth understood the matter as it was intended, not as invoking his favor or protection; but as shewing I disregarded his threats and his efforts.

Unscrupulousness of W. C. Wentworth.

Alleged demand for inquest on J. Sudds.

23. He states that, on the Death of "Sudds," an Inquest was loudly called for by the Public! I have no recollection of it. It might be asked, if an Inquest was so loudly called for by the Public, as he states, and was considered so requisite by himself, why, as a Barrister, and having all along taken so active a part in this matter, did he not apply to the Supreme Court, which was then sitting, as I am informed he might have done, for a "Mandamus" to have compelled the Coroner to have held an Inquest? But the Evidence of Dr. Bowman, Dr. Mitchell and Mr. Steel, the Chief Jailor, shew in the most satisfactory manner that no

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communication was ever made to me or to any Member of the Government, either while "Sudds" was in the Jail or in Hospital, respecting his illness or the holding an Inquest; and I declare that I never heard of "Sudds'" illness either before the "Ceremony" or afterwards, until I was informed of his Death.

Alleged irregularities by executive council.

24. As to the Executive Council having, as Mr. Wentworth states, usurped a Jurisdiction with which they are not vested by Law, I presume the Council is perfectly competent to enquire into any matters relating to the Civil Government. They did not administer an Oath or exercise any Judicial authority, either on the former or present occasion; and I conclude that the Chief Justice, who assisted during the whole of the first investigation which was similar to the present, would have objected, had there been anything irregular in it.

Transmission of extract from act of council.

25. Mr. Wentworth asserts that a "most dishonorable and infamous trick" was practised by me, in transmitting the 6th Section only of the Act of Council* and suppressing the preceding five Sections. He hazards nothing by a bold or scandalous insinuation and may gain something. The simple reply to this is that the Secretary of State had been previously furnished with several Copies of the Act, to which he would of course refer, when considering the subject.

Soldiers guilty of crimes to escape military service.

26. After a variety of unfounded assertions and base insinuations, Mr. Wentworth contends that no such disposition, as had been represented, existed amongst the Troops, and that the number of Men stated to have committed Robberies or to have maimed themselves was exaggerated. So far from this, I have reason now to believe that it was greatly underrated, and that instead of Eight not less than twelve Men of the Buffs and 57th Regiments had been guilty of the Acts represented.

Judgment of W. C. Wentworth by style and matter of impeachment.

27. Having, Sir, already taken up so much of your time, I shall not permit myself to make any Comment on the subsequent passages of Mr. Wentworth's Letter or on the Language he has employed, further than to point out that the style and matter furnish the best Criterion of his Character and motives. Anxious to place the subject in the most infamous and disgusting point of view, he has drawn largely on his imagination and has expressed himself in terms, which any Man, possessing a sense of even common decency, would have been ashamed to make use of.

Protest against examination of R. Robison by council.

28. It only remains for me to request your attention to the accompanying Letter of Protest, which I received from Mr. Wentworth after Captain Robison's Examination by the Council. If the Opinions I have expressed or the Observations I have offered respecting Mr. Wentworth's Character and Conduct required confirmation, I should willingly let it rest on that Letter.

* Note 229.

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Grounds of protest.

29. Mr. Wentworth has stated Six grounds of Protest. Having already observed that the Council exercised no judicial function whatever, I shall merely add that the 1st, 2nd, 4th and 5th grounds are absurd and impertinent.

30. He is perhaps in some measure correct in the 6th, as, if Captain Robison had been previously apprised of the intention to examine him, there can be little doubt that he would have consulted his Friend Mr. Wentworth as to the Testimony it might be proper for him to give.

Absence of F. Forbes from council.

31. Mr. Wentworth states, as the 3rd ground of protest, the circumstance of the Chief Justice not being present in Council during the Enquiry and the moment of his temporary absence being seized by me as the fittest for smuggling the Report which was the object of the Inquiry. I had the honor, Sir, of apprising you in my Despatch of the 22nd April last, marked "Separate," that it was my intention to request that the Chief Justice would continue in the Executive Council until the Charges preferred by Mr. Wentworth should be investigated. That I did so, being very desirous that Mr. Forbes should be present, will be perceived by the accompanying Copy of a letter, which he wrote to me, declining to attend the Council in future. It will, therefore, be seen that Mr. Forbes was not a Member of Council when the Inquiry took place, and that the imputation, like Mr. Wentworth's other Statements, is base and scandalous. Being willing, however, that Mr. Wentworth should have the full benefit of the Chief Justice's view of the case, I beg leave to forward the Copy of a Memorandum, which he favored me with after the former Investigation, by which it appears he considered the Event to have been taken advantage of to answer Party purposes, and very appropriately and justly designated it, "a Political juggle."

Opinion of F. Forbes *re* case of J. Sudds.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MR. W. C. WENTWORTH to The Right Honorable Sir George Murray, K.C.B., His Majesty's Principal Secretary of State for the Colonies.

Sir, Sydney, New South Wales, 1st March, 1829.

Transmission of press accounts *re* death of J. Sudds.

I had the honor to address a Letter, dated the 19th of December, 1826, to my Lord Bathurst, enclosing for his consideration certain numbers of the "Australian" and "Monitor" Newspapers, which contained the prominent facts connected with the death of Private Joseph Sudds of the 57th Regt. and the strictures, which this event naturally elicited at the time from the Independent Press of this Colony; Strictures which, I can

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safely assert, met with the entire approbation of every disinterested person in this community. In that Letter, I requested that His Lordship would be pleased to suspend his judgment on any communication, which he might receive from Lieutenant General Darling on the subject, until I should put His Lordship in possession of a detailed Statement of all the events which had preceded and followed the Death of this unfortunate individual. A natural indolence of disposition superadded to the conviction, which I felt that it would be obvious to His Lordship, even upon the shewing of the Lieutenant General himself, that he had been guilty in the punishment, which he had inflicted on Joseph Sudds, of a high misdemeanor at the least, if not of murder, and that in either view of the Case it would be impossible for His Lordship not to recommend to His Majesty the revocation of the Lieutenant General's Commission as Governor of this Colony, led me in the first instance to defer, and subsequently to abandon altogether that representation which I had intended to make. The notice* however, which has been taken in the last Session of Parliament of the Case of the deceased Sudds, and of his still more unfortunate surviving Comrade Patrick Thompson, by Mr. Stewart, has induced me to resume my original intention, and to transmit to you, Sir, through Lieutenant General Darling himself, that detailed Statement, which many acts of subsequent tyranny and oppression, which I shall probably do myself the honor to bring under your Official consideration in a future Letter, make me regret for the sake of public Justice that I have so long delayed.

Request for suspension of judgment pending statement.

Reasons for delay in statement.

Expected recall of R. Darling.

Reasons for transmission of impeachment.

In submitting this Statement to you through the medium of Lieutenant General Darling, in conformity with the rule† established by Lord Bathurst during the time that he held the Seals of the Colonial Department, I feel that I labor under a considerable disadvantage, as I shall have no opportunity of replying to the Lieutenant General's answer; and I know, as well from the gross calumnies, which he has ventured to publish in his General Orders with respect to myself and another Gentleman, as also from the falsehoods to which he has resorted in his former Despatches on this very topic, that truth forms no characteristic either of his conduct as a man or of that system of misrule, which comprises his public administration of this Government. I make these observations, Sir, in order to put you on your guard against those denials of the accuracy of my statements, which my knowledge of the Lieutenant General's notorious want of veracity justifies me in anticipating will form his principal ground of defence on this occasion. It is painful to me to be under the necessity of making such remarks upon any one occupying in

Disadvantage in transmission of statement through R. Darling.

 * Note 174. † Note 196.

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Society the station of a Gentleman, and still more so that such remarks should apply to an Officer holding such a distinguished rank in His Majesty's Service; but you, Sir, will see that these cautionary observations are due to my own character, which I trust as yet at least is without a stain.

Having premised thus much, I now, Sir, solicit your calm and deliberate attention to the case of the deceased Joseph Sudds, and his surviving Comrade Patrick Thompson. These two men being Private Soldiers of the 57th Regt. were tried at the General Quarter Sessions of the Peace, holden for the Town of Sydney on the 8th day of November, 1826; found guilty of Petty larceny; and sentenced by the Chairman, William Carter, Esqr., to seven years' transportation. The Trial of these two men as reported in the "Australian" and the "Sydney Gazette" will be found in Appendix A hereunto annexed.

Trial and conviction of J. Sudds and P. Thompson.

From these reports, no less than from the General order dated "Head Quarters, Sydney, 22nd November, 1826," contained in the "Return* to an Address of the Honorable House of Commons, dated the 8th of July, 1828"; the whole of which Return, as I shall have frequent occasion in the course of this Letter to refer to it will be found hereunto annexed in Appendix B; It is obvious that the essence of Larceny, the *animus furandi,* was wanting in the case of these two men; that their only object in committing the act, for which they were tried and convicted, was to get clear of their Regiment; and that, if the nature of the Offence, with which they were charged at the Quarter Sessions, had been properly explained to the Jury, they must both have been instantly acquitted, inasmuch as taking Cloth with the mere intention of getting emancipated from Military service does not amount to larceny, although it may constitute a military offence, for which they might very properly have been rendered amenable to a Court Martial. Clear as is the inference, however, from the above premises that these men were guilty of no Civil Offence whatever, except an act of trespass, it is equally clear from the tenor of the General order of His Excellency the Governor above referred to, that the commission of this act "in open day" and "without even an attempt to conceal the fact" and under "circumstances which leave little doubt that their object was to obtain their discharge from the Service" amounted in the profound estimation of Governor Darling to the extremest aggravation of their conduct. I entreat, Sir, your most particular attention to this circumstance, as affording in my humble judgment satisfactory proof that, however well versed Lieutenant General Darling may be in the Code of the Army, he is totally ignorant of those primary and fundamental principles, upon which is based

Object of offence committed.

Guilty of trespass only.

* Note 174.

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the glorious superstructure of that civil polity, which, as far as this Colony is concerned, has been unfortunately committed by His Majesty to His administration.

But, Sir, I am almost equally disposed to question the competency of Lieutenant General Darling as a Soldier. From the arrival of the 57th Regiment in this Colony, up to the period of the death of Sudds, the Suicides in it, I am informed, exceeded in all proportion not only those of any other Regiment in the Garrison, but those also of any other Regiment ever stationed here before. And indeed the General Order itself contains allusion to the case of four other Soldiers of the same Regiment, two of whom, it is stated, have been convicted of a robbery; and the other two had maimed themselves with the same intention, which the General order charges upon the Deceased Sudds and his Comrade Thompson, vizt., "with the intent of obtaining their discharge." These facts, if they be so, ought to have awakened the Lieutenant General's suspicion, as Commander of the Forces, and have given rise to an Enquiry, whether these frequent suicides, maimings and thefts had not their origin in a course of discipline differing from what prevailed in the other regiments of the Garrison, and exceeding in rigour what was essential to a due state of military subordination. Had such an enquiry as this been instituted by the Lieutenant General, as it ought to have been many months before the decease of Sudds, the root of these military diseases might have been discovered, and the King's service probably have still possessed two humble and contented supporters, now lost to their Country for ever. Men too, I am informed and believe, of previously unblemished character, and whose only desire it would seem was to escape from a state of military rigour and endurance, to which they evidently considered transportation with all its penal consequences to be preferred. I would not here, Sir, be understood as meaning in any measure to defend the conduct either of these unfortunate men, or of those other two still more unfortunate beings, who, it appears from the General Order, have maimed themselves with the like intent of obtaining their discharge, and who, in the language of the General Order, but under what authority, whether by virtue of the Sentence of a competent Tribunal or by the mere arbitrary and illegal mandate of the Lieutenant General, I myself know not, but perhaps His Excellency on this point will vouchsafe some explanation, Sir, to you, "will be enabled to judge, whether there is any thing in the employment of a Scavenger in a remote and insulated Settlement allotted for the confinement of the most atrocious Criminals, which can recompense them for the irreparable injury they have inflicted on

Suicides in 57th regiment.

Crime and maiming to obtain military discharge.

Cause alleged to be due to excessive severity.

Punishments ordered for self-inflicted injuries.

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themselves, and the diabolical offence they have wantonly committed." But, Sir, I consider it a sacred duty of humanity, and I should ill perform the task, which I have imposed on myself, were I not to develope, as far as I can, the real motives of that Act, which Lieutenant General Darling considered of so aggravated a nature as to call for the promulgation of the General Order in question, and to authorize the infliction of the second punishment, which it awards for the same offence, by way of prelude to that further unprecedented and illegal increase of punishment, which this same Order annexed to the sentence of the Quarter Sessions under colour and in the name of a commutation of that Sentence.

Alleged illegal increase of punishment.

Justification of punishment by R. Darling.

I perceive, from the Dispatches of the Lieutenant General to my Lord Bathurst contained in the Appendix B, that the Governor founds his vindication of the mode of punishment substituted by His General Order for the Sentence of the Quarter Sessions on the 6th Section of the Act of the Legislative Council, No. 5, passed in the Year 1826. The whole of this Act of Council will be found hereunto annexed in appendix C. Before I shew you, Sir, how utterly this ground of justification fails His Excellency in every respect, it will, I conceive, be more in the natural order of things to enquire what was the character and what have been the consequences of the punishment inflicted by virtue of this General Order on the deceased Joseph Sudds and on his still surviving Comrade Patrick Thompson? And with a view to enable you, Sir, to arrive at a safe conclusion on these points, I have to request your particular attention in the first place to the examination of Patrick Thompson, which was taken down in writing by myself on board the Phœnix Hulk in the presence of Alexander McLeay, Esquire, the Colonial Secretary, and William Henry Moore, Esquire, the then acting Attorney General of the Colony; both of whom attended this examination on the part of His Excellency and cross examined Thompson upon all such points as they thought fit. The result of the examination and cross examination, which were both blended together, is given verbatim, as I took it, in the Appendix hereunto annexed marked D. And I the more readily crave your attention to this testimony, as Mr. McLeay confessed that the evidence, which Thompson gave on this occasion, was strictly accurate, although it was not given on oath, because I knew that in point of law any oath administered in an extra judicial enquiry like that would itself be extra judicial, and of no further validity than a mere statement. It results from Thompson's testimony:—

Nature and effect of punishment of J. Sudds and P. Thompson.

Examination of P. Thompson.

1st. That the fantastical Irons, in which the deceased Sudds and himself were paraded on the 22nd November, 1826, by virtue

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of the General Order before referred to, were made without reference to their stature, or the size of those parts of their bodies upon which the Chains were to be placed. This fact is corroborated by the statement of Captain Dumaresq, his Excellency's Brother in law, which will be found among the proceedings of the Executive Council in Appendix B.

Construction of irons.

2nd. That the Irons used did not fit the bodies of either of the Prisoners, the "Collar of the Set of irons placed on the deceased Sudds being too tight for his neck" and "the basils too tight for his legs," and the Collar in particular being "so small that it would not admit any thing between it and the neck, but a cotton handkerchief," and that "Sudds would not allow it to be turned round so as to allow him to lie on his back, saying it would hurt him, if it was stirred"; and the set of irons placed on Thompson being so short, that, according to his description of them, "the projecting irons would not allow him to stretch himself at full length on his back"; that he "could not lie on either side without contracting his legs"; that he "could not stand upright with the irons on"; and that, at the end of three days, he "broke the Chain of his Irons to enable him to turn the Collar and be at ease." Thus much, therefore, for the accuracy of that part of Captain Dumaresq's statement before the Executive Council, which says, "that there was nothing in their construction (meaning the construction of these Irons) to prevent the person wearing them from lying in any posture"; And thus much also for the accuracy of that part of the Lieutenant General's second Despatch to Earl Bathurst in appendix B, in which he asserts "that it was proved by actual experiment that Sudds could not have sustained any injury from them."

Effect of irons on J. Sudds and P. Thompson.

3d. That the set of fantastic Irons, which had been placed on the deceased Sudds were, on Monday, the 27th of November (being the very day of Sudds death), put on Thompson, as Thompson expresses it "the whole of them, Collar and all," and that he continued to wear these Irons from that time and to work in them as a Culprit in No. 1 Iron Chain Gang on Lapstone Hill (being the first Hill of the range of Blue mountains and distant about 45 miles from Sydney) from Wednesday, the 29th of November at three o'clock, until Thursday the 6th of December following; when, to use his own words, "the weather being very hot, the heat of the Collar used to become intolerable, and compelled me to sit down frequently in order to hold it with my hands off my neck. On these occasions, the Overseer of the Gang would come up to me, and order me to return to my work. I told him I could not, and would not; that he might take me to Gaol, where I would get a rest from work and the heat of the Sun."

Irons from J. Sudds put on P. Thompson.

Inability to continue work in irons.

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Description of irons.

4th. That the Irons placed on Sudds and Thompson, whilst on the Parade on the 22d of November and undergoing the military punishment or "Ceremony" as it is termed in His Excellency's Dispatch, directed by the aforesaid General Order, were of a novel and unprecedented construction, and were not the usual Irons worn even by the Culprits in the Iron Chain Gangs, who have been justly described in a late number of one of our Colonial Newspapers as "consisting of twice and thrice convicted Felons, and as being in general bodies of the most abandoned ruffians or incorrigible rogues, desperate either from their love of plunder or from their insatiable inclination to fraud and theft." That "these irons consisted of a Collar, which went round each of our necks, and chains were fastened to the Collars on each side of the shoulder, and reached from them to the basil, which was placed about three inches above each ancle; there was a piece of iron, which projected from the Collar before and behind about eight inches at each place." This description of them by Thompson, it will be seen, entirely concurs with the description of the Chains exhibited in the Colonial Secretary's Office by order of the Governor contained in the Australian of the 6th of December. "The rings for the Ancles," says the Editor of that Paper, "are made after the usual fashion and are of a common size; in place of having chains attached to them in the common way they are connected by means of long and slender chains with another ring, which is put round the neck and serves as a Collar. Two thin pieces of iron each about eight inches long protrude from the ring collar in front under the Chin, behind under the nape of the neck; This is the position of the pieces of iron (they are not spikes not being sharp at the end), when the chains are put on and adjusted as intended. From this, it is evident that the degree of ease or torture experienced by the wearer must depend entirely upon the length of the several chains; he can't lie down on his back or his belly without twisting round the Collar in order to remove the projecting irons to the side. If the chains be not longer than that part of the body between the ancles and the neck, he can never extend himself at full length, but must remain partly doubled up and become cramped in the course of a short time; for, in turning the Collar in order to lie down, the chains wind and form a Curvature round the body, thus diminishing in effect their length. If the chains are quite long, they may be worn without the smallest inconvenience; but, if they happen to be so short as not to allow the wearer to stand quite erect, they must inflict the most excruciating torture and debar the Sufferer from all rest." This degree of torture, Sir, you will perceive that Thompson underwent

Effect of irons on convict.

for three days until he could endure it no longer; and I am sure, Sir, you will concur in the justness of the observation, which the Editor of the Australian applied to such Irons, "they are not fit for use under English laws." 1829. 28 May.

5th. That the deceased Sudds had been ailing since the 6th of November, probably before; but that his illness was considered of so slight a nature by the medical Attendant of the Gaol, Assistant Surgeon McIntyre, that he was allowed to wear irons (being the ordinary Irons of the Gaol) whilst in the Gaol Hospital, and was turned out of the Hospital the morning of the punishment, 22nd November, and taken to the Barracks about an hour afterwards. That, on the return of Sudds and Thompson from their punishment on the same day, Sudds immediately complained of being very ill, and expressed a wish to go to the Hospital again; That about ten o'Clock of the same night his illness had alarmingly increased; that about this time he observed to Thompson, "That they had put him in them Irons till they had killed him"; That he continued to grow worse with little intermission until Friday morning, the 24th November, when in the words of Thompson, who went to see him, "he was in such a state he did not answer my questions or appear to know me. I squeezed his hands, but he made no return, and appeared quite insensible"; That on Friday night he became delirious; on Saturday he never spoke; and that, about three oClock on Sunday the 26th November, he was carried to the General Hospital, and expired there between six and seven oClock the following morning (Monday, the 27th of November). Illness and death of J. Sudds.

6th. That, during the continuance of Thompson in No. 1 Iron Chain Gang, he himself contracted a fatal malady, which had nearly terminated his existence; and from which he was recovered with difficulty, and after confinement in an Hospital for nearly a month. Illness of P. Thompson contracted in chain gang.

This, Sir, is a condensed view of the more prominent and important facts contained in Thompson's statement; from the whole of which it is clear, That the chains, which were placed on these men by order of the Governor, were such as never before had been seen or used in this Colony; That, after the death of Sudds, the chains, which had been worn by him, were on the very day of his Death placed on Thompson, instead of his own, which he had broken, in order to relieve himself after three days from the intolerable torture which they inflicted. That part of Mr. McLeay's Letter of the 1st December, 1826, addressed to the Editor of the Australian, contained in Appendix B, which says, "if you have any desire to examine the Chains, you are at liberty to do so; they are now at my Office, and are the counterpart Novelty of irons. Transfer of irons to P. Thompson. Error in letter by A. Macleay.

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Error in letter by A. Macleay.

of those put on Thompson," cannot be true. They might have been Thompson's irons, but Sudds' irons were then on Thompson, who was at that time, and had been, as will be seen, for four days previously in the Chain Gang at Lapstone Hill. I admit, however, that, if Thompson's chains were the exact Counterpart of Sudds' (and I see no grounds for doubting this fact), and if the Chains really exhibited at the Colonial Secretary's Office, as alluded to in his Letter, were the Chains which had been put on Thompson, this mis-statement of the Colonial Secretary is not material. I myself was among the number of those who had the curiosity to go and see the Chains exhibited at the Office of the Colonial Secretary; and, although I did not weigh them, or indeed see any means of weighing them afforded to the Public, they certainly did not appear to me to exceed the weight (13 lbs. 12 oz.) mentioned in the Colonial Secretary's Letter. I have good reason, however, to believe that, as they were not manifestly the Chains placed on Sudds, so neither were they the Chains worn by Thompson. Before I lead your attention, however, to the conclusive evidence, which I have to offer on this point, I would briefly refer to that part of Lieutenant General Darling's first Dispatch to Earl Bathurst in Appendix B, in which he says "with respect to the chains, which are designated 'Instruments of torture,' it will be sufficient to state that they weigh only 13 lbs. 12 oz.; and, though made with the view of producing an effect on those who were to witness the ceremony, the 'extreme lightness of their construction' prevented their being injurious in any respect to the individual." It will be seen by this Paragraph that the "extreme lightness" of these Irons is held up by him as the main ground of his Defence for having used such Irons, and as affording in his opinion satisfactory proof that those, who had designated them "instruments of torture," had been guilty of misrepresentation. What the Lieutenant General means by "extreme lightness" does not appear very intelligible to me, and, Sir, when I tell you that, notwithstanding this "extreme lightness," the Irons, exhibited at the Colonial Secretary's Office and admitted to have weighed 13 lbs. 12 oz., exceed in weight the irons placed on murderers and other atrocious Criminals for the purpose of safe custody, between the interval of sentence and execution, by at least 1 lb. 12 oz.; and exceed in weight the Irons used in the Chain Gangs (to one of which it will be seen that Sudds and Thompson were to be attached) by at least 9 lbs. 12 oz.; It will be obvious to you, Sir, that, whilst, according to the Language of the Lieutenant General, they were calculated to produce an effect on those who were to witness "the ceremony," their operation on the wearers

Alleged substitution of irons.

Weight of irons.

Comparison with irons for murderers and chain gangs.

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themselves was the addition of nearly 10 lbs. of extra weight, and this too not suspended from the loins, like the ordinary Irons known to the English law, but from the neck, that part of the body, which is least able to support an extra weight or indeed any weight whatever pressing upon it in such a direction. As regards then the mere admitted weight of these Irons, coupled with their construction, it will be perceived, Sir, that the Lieutenant General in no wise exonerates himself from the charge of having used "Instruments of Torture." But, Sir, it is proved beyond contradiction by Thompson's statements with reference to these irons, that as regarded him they were really instruments of torture, altogether independently of their weight, and that he was actually tortured by them in the literal signification of the word in the Gaol in his own Chains for three days, during which time he was prevented from extending his body and from lying on his back, belly or side, when he would endeavor to sleep, except in a position partly doubled up; and 2ndly in Sudds' chains, for eleven days afterwards, during eight of which he was exposed to the rays of an almost vertical sun, and experienced not the like torture from the want of rest, and the cramping of his body, but the intolerable torture of an iron collar heated beyond the possibility of human endurance. Thompson's statement proves also that Sudds was actually tortured with them in the manner already described for about twenty eight hours. It would be as absurd, therefore, to speculate as to the probable effects of such irons on the wearers, as to labor any further to refute this leading feature in the Lieutenant General's vindication; It will be in vain for him to urge that the torture inflicted was the result of accident. The English law does not sanction any such fantastic trifling as this with the lives, the persons or the liberties of its subjects; and it was incumbent on him to have taken care that this unprecedented mode of punishment "should have produced merely an effect on those who were to witness the ceremony." They might, supposing those were the irons worn by Thompson which were exhibited at the Colonial Secretary's Office, have been so constructed, as to produce to the wearers of them for a short, but only short period, little other inconvenience than would necessarily result from the suspension of such a weight from their neck downwards; they ought to have been so constructed; And I put to you, Sir, as one ground of impeachment of Lieutenant General Darling, amounting in the case of each of these unfortunate men to a high misdemeanor in law, punishable by fine or imprisonment or both, the torture which they endured by virtue of His General Order; As another ground of impeachment amounting

Allegations *re* torture inflicted by irons.

Charge of inflicting torture against R. Darling.

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in the Case of each of them to another high misdemeanor punishable in like manner, the use of irons unknown to the law; And as a third ground of impeachment amounting in the case of each of them to another high misdemeanour, the whole "Ceremony," as the Lieutenant General terms it, to which these Men were exposed on the Parade on the 22d November, 1826.

Charge of using illegal irons and inflicting illegal punishment.

In considering these grounds of impeachment, and the nature of the offence, which they respectively amount to, you, Sir, will of course take the opinion of His Majesty's Attorney and Solicitor General; and you will, I have no doubt, be told by those High Law Officers of His Majesty, That these acts, which, you will perceive, flow necessarily from the Lieutenant General's admissions as contained in the various documents set forth in Appendix B, even though all the Lieutenant General's statements and inferences should be true, and the death of Sudds not one of the consequences of the illegal punishment, which he underwent on the memorable 22nd November, constitute in law, what I have designated them, "high indictable misdemeanors." Of the inaccuracy, however, of one obviously of the most material of the Lieutenant General's statements in his opinion from the stress which he lays on it, I mean his statement of the weight of the irons placed on Sudds and Thompson by his authority, I have already expressed my conviction, and I now, Sir, beg to draw your particular attention to the grounds upon which this my conviction rests. It will be seen by Thompson's statement in Appendix D that his original irons, which he had been forced to break on Saturday, the 25th November, "to enable him to turn the Collar and lie at ease," were removed on Monday, the 27th of November, and Sudds's irons placed on him in their stead; Thompson's irons remaining in the Lumber Yard, where this exchange of irons took place. Immediately upon the death of Sudds, and the publication of the Australian of the same day, the public mind became agitated in the highest Degree. The feeling was universal that Sudds had been murdered. In this state of public ferment, and when it became necessary, in the opinion of the Governor, to cause Mr. McLeay to address to the Editor of the Australian the Letter contained in Appendix B, with the view of allaying the general indignation, there would evidently be no difficulty in forging at the Lumber Yard, where Thompson's irons were then deposited, and had been, it appears, originally made, a set of irons of the same shape and dimensions, though of very different weight; and to exhibit these at the Colonial Secretary's Office, as the identical irons which the deceased Sudds had worn. My chief grounds for believing that this artifice was resorted to will be found in the statement of Captain

Charge of high misdemeanor against R. Darling.

Allegation *re* substitution of irons for exhibition.

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Testimony by R. Robison.

Robison of the New South Wales Companies of Veterans, hereunto annexed in Appendix E. Of the accuracy of Captain Robison's statement, I myself entertain no doubt; and those Gentlemen here, who have known him for many years longer than I have, feel in common with myself that no motive of personal malice or ill will would tempt him to swerve in the slightest degree from the path of truth and honour. I make this prefatory observation on his testimony, because I am aware that the Lieutenant General will attempt to weaken, if not to shake it altogether, by adverting to a late Court Martial in which Captain Robison was the Defendant and the Lieutenant General himself the Prosecutor. I myself feel no doubt that the chief, if not the sole motive, in which this Court Martial originated, was the accidental trying on of Sudds' original Chains by Captain Robison in the manner stated in his letter; and the latitude of remark, which Captain Robison indulged with respect to these "Instruments of Torture" afterwards. In a System like this, where an organized system of espionage opens the surest way to the patronage of the Governor; and where consequently scarcely a conversation takes place in any Circle, which is not immediately repeated at Government House; In such a lamentable state of Society as this, in which no man can trust, it is impossible that Captain Robison's observations, with respect to the character and weight of those Chains, could have been long unknown to the Lieutenant General. And it is evident that, this Gentleman's private and accidental experience of the irons being thus at variance with the Governor's and Colonial Secretary's public and official statements, It became expedient, if not essential, as well to the vindication of their public character for veracity, as to their very official existence, that some measure should be adopted to get rid of or at all events to weaken the effect of testimony, which it was foreseen would sooner or later rise in awful array against them. Hence a Court Martial, the result of which, notwithstanding the foul means which were practised by this powerful Prosecutor to get Captain Robison cashiered, and the highly objectionable elements of which the Court was in part composed, no one here doubts, who heard the Trial, will prove highly honorable to this persecuted Officer.

Alleged reason of court-martial on R. Robison.

Having premised thus much as to the credit due to Captain Robison's statement, and to the means which, as I conceive, have been adopted by the Lieutenant General to weaken its effect, I now crave your attention to the very important matter it contains. It will be seen that this Gentleman had the curiosity, in his way from Bathurst to Sydney some time after Thompson's irons had been removed, as Mr. McHenry the Magistrate at

Irons tested by R. Robison at Emu plains.

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Irons tested by R. Robison at Emu plains.

Penrith stated, according to Thompson's evidence, "by the orders of the Governor," to try those Irons on and adjust them to his own body. Captain Robison is a man in the flower of life, of athletic form, and about five feet eleven inches high; a man, therefore, it is obvious in every respect more capable of supporting a heavy weight without inconvenience, than either the deceased Sudds or his Comrade Thompson. And, although this Gentleman will not pretend to state the exact weight of these, which were unquestionably the genuine irons worn by Sudds on the 22d November, It is manifestly impossible that Irons of the weight of those mentioned in the Lieutenant General's Despatch, and the Colonial Secretary's Letter in Appendix B and exhibited at the Colonial Secretary's Office, could have been attended with that pressure on Captain Robison's frame, which is so minutely described in his Letter in Appendix E. It will be seen also that there was in Captain Robison's company at the time an Officer of the name of Lieutenant Christie; and that this latter Gentleman, being also excited by a similar curiosity, submitted his person to the like experiment. This Gentleman is also in the flower of life, though not of the athletic shape of Captain Robison. Captain Christie is now in England; and, if it should be considered that the statement of a Gentleman of Captain Robison's rank and character needs any confirmation, Captain Christie can be readily applied to. So much therefore for the direct testimony, which is forthcoming to negative tho alleged weight of the irons, as stated in the Public correspondence of the Lieutenant General and the Colonial Secretary. But there is also not wanting indirect proof tending to the same conclusion. It will be seen on reference to Thompson's Evidence in appendix D that Sudds' irons were taken off him (Thompson) on Friday morning, the 8th of December, through the intervention of Mr. McHenry "by the orders of the Governor." These orders, I am informed, were conveyed in a Letter from Captain Dumaresq as Civil Engineer quite out of the common course of such Orders to Mr. Kinghorne, Junr., or to the Penrith Bench of Magistrates (of which Mr. McHenry was one), stating that, in consequence of Thompson's good behaviour, the Governor had been pleased to direct that the Irons, which he wore beyond the usual Irons of the Chain Gang, should be taken off. This, I believe, is the substance of this Letter, which my informant states is deposited among the records of the Penrith Bench. It is remarkable that, while this Letter contains on the one hand a direct admission on the part of His Excellency of one important fact in my Case against His Excellency, vizt., That Thompson was at this time extra-ironed, it on the other hand puts forth as the alleged

Removal of irons from P. Thompson.

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ground for the mereiful interposition of the Governor a sort of Certificate of Thompson's good behaviour, and this too emanating not from the Overseer or other person, under whose charge he had been working, but from His Excellency's brother in Law, Captain Dumaresq, who from his situation could know nothing of Thompson's behaviour, and who, in fact, did know nothing of it, inasmuch as, when the Letter arrived at its destination, Thompson according to his own evidence had become very refractory and was then actually in Prison by order of his Overseer. Yet it was at this period, when, according to Thompson, the "heat of the Collar used to become intolerable and compelled him to sit down frequently in order to hold it with his hands off his neck," when, "the Overseer of the Gang would come up to him and order him to return to his work," and when Thompson "told him that he could not, and would not, that he might take him to Gaol, where he would get a rest from work and the heat of the Sun"; and when the Overseer "had ordered him to Gaol accordingly"; It was at such a period as this that Captain Dumaresq forwarded so mal a propos a certificate of good conduct, and His Excellency's gracious commands thereupon in regard to Thompson. Upon the arrival of such a Document at such a crisis, one would have imagined that His Excellency's intentions with respect to Thompson would have been deferred for a day or two, until His Excellency should have been better informed as to the real merits of the object of his clemency. But so well did the intelligent Agents understand their duty and the real aim of this very particular communication, that the extraordinary irons were immediately removed from Thompson's person, and the ordinary irons of the Gang placed on him instead. The true motives of this pretended lenity were soon developed. Thompson had not long been removed to Windsor, when the convenient agency of Captain Dumaresq was again resorted to. He went to the Government Station at Emu Island and took away these Irons in his Gig, concealed, as I am informed, in a Bag, and actually without communicating with the person in whose custody they were deposited. This certificate of good conduct then was a false pretence emanating indirectly, as I am justified in inferring, from the Governor himself, because directly proceeding from His Excellency's brother in law; The real object of this measure being to conceal these instruments of torture from the persons, who were travelling the Mountain Road, and ultimately to get them placed in the same secure keeping as the Set of Irons which had been placed on Thompson. I ask you, Sir, confidently whether these transactions bespeak a man acting from pure motives; from a desire to rectify errors arising merely from

Removal of irons from P. Thompson.

Alleged motives for removal of irons from P. Thompson.

Alleged removal of irons by W. Dumaresq from Emu plains.

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a bona fide misapprehension of the law; or whether they do not, on the contrary, indicate the sinuous practices of a man, "afraid of the light because his deeds were evil." It must be superfluous for me, Sir, here to dwell upon the dilemma, in which Lieutenant General Darling, his brother in law Captain Dumaresq, and Mr. McLeay are left as well by the direct testimony of Captain Robison, as by the inferences, which result from the steps subsequently pursued by these parties. My object is not to dwell upon the mortifying position, which they must hereafter occupy in society as private Gentlemen; my object is to shew the public crimes, in which they are involved as principals or accessaries; And if, Sir, the testimony of Captain Robison is to be believed, supported as I have no doubt it will be by the testimony of Captain Christie, and by a mass of other direct corroborative testimony of a highly respectable character, which I am informed might easily be obtained here, whenever the official fuctions of these three Gentlemen shall terminate; Why then "the extreme lightness" of these instruments of torture vanishes into thin air, and His Excellency's inferences and statements in his Dispatches in appendix B, false as I have proved them in fact, vizt., "that the extreme lightness of their construction prevented their being injurious in any respect to the individual," and again "that it was proved by actual experiment that Sudds could not have sustained any injury from the chains," fall to the ground; and the Chains themselves stand admitted on the face of His Excellency's Dispatches to have been correctly designated "Instruments of Torture," as well by reason of their weight, as I have already proved them to have been, by reason of their construction. And here, Sir, that the real weight and dimensions of those Irons may be known to the World, I publicly call upon Lieutenant General Darling, now that Captain Robison is here on the spot where they are deposited, to produce them from their hiding hole, from the Bag in which his Brother in law Captain Dumaresq conveyed them in a Gig from the Government station at Emu Island, in order that Captain Robison may again fit and adjust them to his body, and be able to declare whether they are or are not the same irons, which his curiosity (and I consider it a sort of providential curiosity) tempted him to put on at Emu Island. I call upon the Lieutenant General to do this, asserting to his teeth my perfect and conscientious conviction that the Irons, exhibited in Mr. McLeay's Office, were fabricated by his directions through the immediate agency of his Brother in law Captain Dumaresq, and that these were not one third, probably not one fourth, and possibly not one fifth part of the weight of the genuine irons, with which the deceased

Alleged false statements by R. Darling.

Demand for production of irons.

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Demand for production of irons.

Sudds and his survivor Thompson were tortured on the 22d of November and subsequently. In making this appeal to the Lieutenant General, I am aware that to comply with it or not will of course be entirely in his discretion. That the identical Irons, for the production of which I now call, are still in *esse,* I for one entertain no doubt. They could not have been destroyed (I mean as to their then form) without the agency of some artificer, who it would be known might be called at a future day as a Witness; and, as will be seen hereafter, they were too carefully guarded in their progress from the Lumber Yard to Government House in the first instance; thence to the Parade after due approval in the second instance; thence on the persons of these unfortunate men to the Sydney Gaol; thence to the Lumber Yard (where one set of them those worn by Thompson is lost sight of); thence back again to the Gaol; and thence to Emu Island, from whence the set worn by Sudds on the 22d December were ultimately taken away in a Bag to Government House or elsewhere; I repeat they were too carefully guarded in all their stages to leave any probable ground for the supposition that they have been destroyed. But if they have been destroyed, where is the legitimate motive that could have led to this act. Would it be a desire to reveal their true weight and dimensions or to conceal them? Would it be to vindicate to posterity the character of Lieutenant General Darling; to convince the world of "the extreme lightness of" those mistermed "instruments of torture"; of his consequent humanity, and the purity of the motives, whence had sprung acts, which had drawn or would draw on him the gaze of an indignant universe! The simplest mode of refutation, the Lieutenant General could at any time adopt, would be the production of the irons themselves; He was aware of this mode of defence; he had practised it; and publicly threatened as he has been with impeachment by myself, denounced by the Public Press, and aware, as he must have been, not only from the tenor of his precautionary Dispatches to my Lord Bathurst, but from the gathering indignation of this long oppressed and insulted community, that the day of his public and formal ordeal had not arrived, it is not credible, nor would I believe him and all the minions, who surround him, on their oaths that those Irons, in which Sudds and Thompson were tortured, are not still safely deposited in his own special keeping, or the keeping of some one upon whom he thinks he can place reliance. I therefore reiterate my Call upon the Lieutenant General to produce the genuine irons, worn by those men on the 22d November, or to stand convicted by his own admission (an admission which will

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be necessarity involved in the non production by him of these Irons) that I have not over rated their weight.

Value of extra judicial affidavits in colony.

It will be in vain for His Excellency to endeavor to meet this part of the Case by a string of extra-judicial affidavits or statements like the "Volunteer" of Mr. McLeay. Any body here, who is base enough to employ such means, could procure for a mere trifle as many of these proofs as might be required to negativo even a demonstration of Euclid. If there be one great moral stigma, which justly attaches to this Community and forms its distinguishing deformity, it is the notorious and disgusting perjuries, which daily stain tho proceedings of our Tribunals, and render it frequently impossible for Judges, Juries or Assessors to distinguish truth from falsehood. This too in cases where a Dollar, or at most a pound forms the Perjurer's reward. But in a case, where a Governor should be concerned, the temptations to Perjury, which are at His disposal, are so numerous; where Tickets of Leave, Emancipations, Pardons, Grants of Land, Distribution of Convicts and Convict Mechanics, Continuance in Offices or employments already possessed; the hopes of obtaining new or better employments in a case, where these and a thousand other privileges and indulgencies, which might be enumerated, form altogether a mass of influence, from which no one however independent his station or circumstances is altogether exempt; In such a case, I say, the Agents of a Governor would only have to drop an intelligible hint, and a thousand "Volunteers" would spring up in an instant. I make these observations, Sir, with a view to prevent the indecency of a second recourse to that mode of vindication, which has already been practised by His Excellency, or, if it should be resorted to again, to shew to you and the world its intrinsic weight and value.

Having thus placed His Excellency in a dilemma as to the character and weight of the Irons, from which the only mode of extrication, I conceive to be the one pointed out, It would be as well, sir, before I close my observations on these correctly designated "instruments of torture" that I should call your particular attention to that part of the evidence of Mr. Mackaness, who was then Sheriff of the Colony, hereunto annexed in Appendix F, which refers to his having seen them at Government House before they were used. From this Gentleman's statement, it is obvious that the irons in question were, previously to the exhibition on the Parade or "the Ceremony," deposited in the Ante-room of Government House for His Excellency's inspection, and that, if His Excellency did not himself sketch out the design of them for the guidance of the Artificers (of which fact there is no evidence one way or the other), he at

Evidence of J. Mackaness.

Inspection of irons by R. Darling before use.

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least approved of what he calls "their construction" after they had been made, and before they had been used in the manner directed by His Excellency's General Order. This renders it quite superfluous to determine to whom the merit of this invention actually attaches; but I have been informed by a Gentleman, who saw the Irons, whilst on Sudds and Thompson, that in shape they were similar to the irons placed on the Maroon Blacks at the Isle of France; And, as His Excellency had some short time before his Appointment to this Government filled *pro tempore* the Government of that Colony, it is generally believed here that these "Irons," were "constructed" under his immediate direction. It is difficult indeed to ascribe the invention to any other quarter, for up to that period no such irons had ever been placed upon any part of the Felon population of this Colony. But it is useless to speculate any further on this point; the testimony of Mr. Mackaness at all events brings home to the knowledge of the Governor the precise weight and character of the Irons, which he was about to employ; and this fact is the more essential, as it will prevent him from pleading ignorance of the degree of punishment, which these unfortunates were about to undergo; and, as it also establishes the Lieutenant General's real claim to that character for humanity, which was supposed to belong to him by some of his friends or advocates in Parliament. We read, Sir, of Monsters of antiquity, who have feasted their Eyes beforehand with the instruments of their intended torture; but, to such acts and to such men as these, Historians have applied their just Epithets, nor do I at this moment recollect that contemporary encomiasts, having any claim themselves to the quality they vouched for, were found to decorate them with a false praise.

Probability of construction of irons by direction of R. Darling.

I will now, Sir, take the liberty to draw your attention to what I consider to be the paramount object of Enquiry as connected with His Excellency's illegal punishment of the deceased Sudds, vizt., Whether the death of Sudds was in any wise occasioned or accelerated by the punishment, which he underwent by virtue of His Excellency's General Order in appendix B on the 22d November, 1826; I repeat whether it was in any wise occasioned or accelerated, because in my view of the law that man is equally culpable, who, from what the law terms malice, abriges the natural duration of another life an hour, a day, a year or a century. This is obviously the first point in the natural order of things for determination in all charges of murder. The only evidence upon this point in the proceedings had before the Executive Council, at least the only evidence of a scientific nature, and upon which, therefore, any reliance can be placed, is

Possible effect of punishment as cause of death of J. Sudds.

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Evidence of J. MacIntyre.

to be collected from the report and statement of Mr. McIntyre, who was the Assistant Surgeon of the Gaol and attended the deceased both before and after his last illness. The testimony* of this Gentleman, who I suspect was wisely not pressed to give his opinion of the proximate Cause of the death of Sudds, is extremely scanty; and in my judgment more light as to this fact is to be collected from the necessary inferences arising from its omissions, than from any direct statement it contains. Appointed as Mr. McIntyre had been to his official situation by the Governor himself, and called upon to attend an Enquiry involving, if not the life, at all events the character of His Excellency; an Enquiry, too, at which His Excellency was most indecently sitting as President to judge in his own Case, whether he himself had or had not been guilty of murder or some lesser Offence; Common delicacy as well as common gratitude would obviously suggest to Mr. McIntyre the propriety of not volunteering any evidence upon any points on which he was not directly interrogated. Hence we find him stating in substance that there was nothing, which he considered alarming in Sudds' Case, until after his Exposure on the Parade; and that even after his Death nothing unusual was found on opening his body except that "the Liver seemed larger than in general though healthy in all other respects"; that "there was mucus of a slimy, frothy description in the throat"; and "that the windpipe was rather inclined to a reddish colour"; and that "in his opinion the delirium, under which Sudds was suffering, occasioned the frothy substance collected in the windpipe, which he first thought was a slight degree of inflamation." From the whole tenor of this Gentleman's evidence, with which the Evidence of a Subordinate of the name of Thompson, who it is not insinuated possesses the slightest medical knowledge, and the evidence of Mr. McLeay (the latter too taken upon oath) are insidiously contrasted, merely to impugn the honest but unbending and unpalatable testimony, which Mr. McIntyre found himself obliged to give before the Executive Council; because, as he himself states, although it did in some trivial respects vary from a preceeding desultory opinion, he would not commit "any particulars to writing which he could not verify on oath." From Mr. McIntyre's testimony, I repeat, it is quite clear that neither during the progress of Sudds' illness, nor upon his dissection after his Decease, were any symptoms discovered, which could connect his Death with any dropsical or inflamatory complaint arising from natural Causes. That event, therefore, must be traced to other sources, which Mr. McIntyre, I dare say, could have developed, and would, had he been pressed. It occurs to

* Note 230.

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me, however, that these are of no difficult discovery; and that they can be arrived at without Mr. McIntyre's aid with a degree of certainty at least sufficient to justify further enquiry as to the death of Sudds before a competent Tribunal. It will be collected, as well from the Lieutenant General's Dispatches in appendix B, as from Mr. McLeay's statement before the Executive Council (sworn, I perceive, for some reason or other before one F. Rossi, J.P., and not before the Executive Council itself, any of the Members of which by the way were as competent to administer an oath except the Governor himself as the said F. Rossi) That the Governor insists in the first of these Dispatches that "the extreme lightness of their construction" (by which I suppose he means the extreme lightness of the chains themselves) prevented their being injurious in any respect to the individual, and again, in his second Dispatch, that "the chains were put on a man of Sudds' size and stature in the presence of the Council, and it was proved by actual experiment that Sudds could not have sustained any injury from them." And to counteract that part of Mr. McIntyre's Statement, which has reference to the conversation that took place between him and Sudds, after Sudds' punishment on the 24th November, as detailed both in his Official report to Mr. McLeay, and in his evidence before the Executive Council, in which Sudds according to him declared "I will never work in irons"; There is the extra-judicial oath of Mr. McLeay before the said F. Rossi, J.P., in which Mr. McLeay endeavours to establish that Mr. McIntyre's first report of this conversation between him and Sudds was "that he would never go to a Penal Settlement." With respect to the superior credit, however, which is due to the mere statement of Mr. McIntyre over the extra-judicial oath of Mr. McLeay (and which I need not tell you amounts in law to nothing more than mere statement), I have already, Sir, I think, presented to you reasons sufficiently cogent to justify me in declaring that I would not believe him on his judicial oath; but I shall have further occasion to draw your attention to the gross perversions of truth, which characterize as well His Excellency's Despatches to my Lord Bathurst, as Mr. McLeay's Letter to the Editor of the Australian in appendix B, and which, you will perceive, form a still further ground for the opinion I entertain with respect to Mr. McLeay's as well as His Excellency's want of veracity. These parts of His Excellency's Dispatches and of Mr. McLeay's testimony evidently point to what they knew to be the gangrene of this Case, "the Chains," and shew an extreme desire on the part of the Hero in this Tragedy to disprove the possibility that "the Chains" could have occasioned death, and on the part of the

Criticism of various statements.

Alleged misstatements by A. Macleay and R. Darling.

Endeavours to disprove association of irons with death of J. Sudds.

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Opinion of J. Sudds *re* irons.

principal Officer, Mr. McLeay, even to make it believed that the victim himself had never connected his sufferings or illness with the real and sole cause of them. That he had, however, so connected them is proved from other evidence than Mr. McIntyre's. We have Sudds' version of the proximate cause of his malady in the simple but affecting words of the broken hearted Soldier to his Comrade on the very night of the day of his inhuman exposure; when his wife and child being uppermost in his recollection, he exclaimed "they had put in them Irons until they had killed him." The Irons! ! ! The Irons! ! ! Then were the alpha and the omega of this Catastrophe; and, had Mr. McIntyre's opinion as to the accelerating and proximate cause of the death of this Victim been sifted before the Executive Council, as it would have been before a Coroner's Inquest, It is fairly to be inferred that it would not have differed from the opinion expressed by the dying Soldier himself. That Mr. McIntyre's opinion was not volunteered considering the extreme indignity, with which he was treated as well by the Governor, as by Mr. McLeay, speaks highly for his moderation and forbearance. But, if Mr. McIntyre's statements in reference to the death of Sudds were really questionable upon any just grounds; if Sudds' death was the natural result of disease and not accelerated by extraneous events; if the suddenness of his relapse, his state of mind and rapid dissolution, without any traces of disease to account for it; if all these facts do not concentrate in repudiating this inference sought to be drawn from Mr. McLeay's Letter and the Governor's Dispatches; Why, I would ask, was not further medical evidence called in? Why was the opinion of Dr. Bowman the Principal Surgeon not asked upon his examination before the Council, or previously, as Mr. McIntyre had been? Why too was Dr. Mitchell, the principal assistant Surgeon of the Hospital, where Sudds died, not referred to? It was known to the Governor and Mr. McLeay that this latter Gentleman was present at the Dissection of Sudds' body; nay more that he was the very Operator. Why, then, I repeat was not this Gentleman's opinion at all events contrasted with Mr. McIntyre's, If Mr. McIntyre's were faulty? I will answer this Question for His Excellency. It was because the opinion of Dr. Mitchell had already reached Government House, and was known there to be more unfavorable to the Governor's Case than even Mr. McIntyre's. It was therefore thought to be a more prudent course to attempt to impugn Mr. McIntyre's testimony, cautious and forbearing as I have shewn it to have been, than to hazard any further medical opinions on the subject.

Neglect to call medical evidence.

Alleged cause for neglect to take evidence of J. Mitchell.

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Alleged attempt to discredit testimony of J. MacIntyre.

But permit me, Sir, to solicit your further attention for a moment to the grounds, upon which Mr. McLeay in his "Volunteer Affidavit" gravely seeks to invalidate the testimony of Mr. McIntyre. It will be collected from this Affidavit (which by the way for some reason or other, which I take for granted will be attempted to be explained, was not sworn until three days after the Dispatch founded on it was written, and until six days after it was submitted to the Executive Council) that Mr. McIntyre's first Declaration before the Governor and Mr. McLeay, after the death of Sudds, was that there was "an inflammation or inflammatory appearance extending from the chest upwards to the throat, where it was more extensive, and which he observed was termed 'Bronchites,'" which "Bronchites" Mr. McLeay has not sworn that Mr. McIntyre stated to be the cause of Sudds' death; but either the Oath is pregnant with this inference, or Mr. McIntyre's statements can be in no wise affected by it. Supposing this then to be the inference sought to be established, I would ask, is it at all unusual to find the cleverest medical Practitioners not only differing in opinion from one another, but frequently receding from opinions deliberately formed and expressed by themselves. What ground of moral imputation then does it convey against Mr. McIntyre, a young Practitioner, that he should, after mature reflexion, have so far varied from a previously expressed opinion, as not to have denied the existence of "an inflammation or inflammatory appearance" such as he at first described; but to have assigned it to a different cause, that is, not to "Bronchites," which he had in the first instance supposed might have existed, but to the "delirium" under which Sudds was suffering, and which Mr. McIntyre finally concludes "occasioned the frothy substance collected in the Windpipe which he first thought was a degree of inflamation." What contrariety of opinion is there here even on the inference of Mr. McLeay? or, if there be any, what does it amount to? Certainly not to a total change of sentiment on the part of Mr. McIntyre, but merely to the transfer of certain ascertained symptoms from a supposed cause of Disease, which never did exist except for an instant in the speculative imagination of Mr. McIntyre himself, to a real "delirium" under which the Deceased had been actually suffering for nearly three days previously to his dissolution. So much then, Sir, for this mouse of a contradiction, which the mountain labor of this Affidavit has brought forth. Supposing, however, for the sake of argument that the death of Sudds could be fairly traced to that "Bronchites," or inflammation for which Mr. McLeay so fruitlessly contends, How, as it has been justly enquired in a recent number of the "Australian," would he account

Suppositions re cause of bronchitis.

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Suppositions re cause of bronchitis.

for the access of this disorder? What could he assign as the predisposing cause? was it common cold? and if so where was it taken? not on the Parade, for there it was burning hot. Perhaps then it was an over heating of the blood whilst there, the effect of an almost vertical Sun or a hot wind, and a subsequent chill? Or could a sense of wrong or a feeling of shame arising from an extraordinary punishment and degradation make the Blood boil and produce increased action, fever and inflammation? Or might not an iron Collar, which in the language of Thompson was "so small that it would not admit any thing to be between it and the neck but a Cotton handkerchief," and that Sudds, although restless and anxious to change his position, would not submit to have his Collar turned "so as to allow him to lie on his back" from the very dread of the agony he would have to undergo; I repeat might not a Collar pressing round the neck to this degree for twenty eight hours have produced "an inflammatory appearance in the throat and a frothing in the Windpipe"? It would rather seem then that, if "Bronchites" had in fact occasioned the death of Sudds, sufficient predisposing causes might be assigned for the existence of such a disease in the nature of his punishment; and that the Lieutenant General's Case would be in no wise bettered by actual proof of all that the Colonial Secretary has labored to establish in vain.

Combination of evidence in favour of death accelerated by punishment.

I take it to be sufficiently proved then from the extreme susceptibilities which are apparent in the acts and correspondence of the chief Dramatis Personæ, as disclosed in the public Documents in Appendix B, From the testimony of Mr. McIntyre, with reference as well to its material omissions, as to the scantiness of its details, and from the corroborating testimony of the Sufferer himself (which appears to have been given as it were *in extremis*, and may probably with some further explanation from Thompson be hereafter considered admissible evidence in a Court of Justice), That the death of Sudds, if not wholly occasioned, was at least accelerated by the punishment thus inflicted on him by his Excellency's authority. What was the process, if I may so term it, of his death; whether it was the effect of a Coup de Soleil arising from the exposure of his already debilitated person to the scorching blaze of an almost vertical Sun; Whether it arose from exhaustion and "consequent depression of Spirits"; Whether from mere inanition resulting from such depression; Whether from the unusual Weight of the Irons themselves and the severity of the punishment, which he was made to endure in the then feeble state of his health; Or whether in fine his malady was purely of a mental character and originated solely in the unlawful degradation, to which he had been subjected by

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exposure on the Parade in the fantastical irons and dress, in which he was exhibited to the gaze of his former Comrades: To which of these Causes separately, the death of Sudds is to be ascribed, or whether to the whole of them in combination, perhaps it may be deemed somewhat premature to pronounce a decided judgment without further scientific testimony. My own opinion is that the agony occasioned by the contrast of his former Condition of a Soldier and his then degraded condition of a Felon pierced his soul for the first time, whilst undergoing his bodily torture on the Parade, and brought on that depression of spirits and delirium, which in a few days terminated his earthly career, and reseued him from that further torture to which he was doomed. My reasons for inclining to this opinion are 1st: The labored attempts which His Excellency makes to parry this inference at the close of his first Dispatch to Lord Bathurst in Appendix B, where, after dwelling on the great and important service that has been rendered to the country at large (upon the nature of which by the bye I trust His Excellency will be more explicit in His reply to this Letter), he observes, "As to the fate of Sudds, it can hardly be supposed that a man, who could deliberately commit sueh an act with so base an intent, could possess any sense of shame or really feel the degradation, to which he had wantonly and wilfully subjected himself"; And 2ndly. The total absence of any symptoms of any disease upon the dissection of Sudds' body with which his sudden dissolution could be physically connected. The Paragraph, which I have quoted from His Excellency's Dispatch, sufficiently points if not to his own surmises as to the proximate Cause of this Catastrophe, at least to what he inferred must be the surmises of others; and the appearance of the body itself on dissection negatives, as I have already said, the possibility that it could have arisen from that dropsical complaint with which the deceased had been, it would seem, at intervals afflicted and a slight attack but only a slight attack of which he was suffering at that time.

Opinion of W. C. Wentworth *re* cause of death.

That the death of Sudds was in some way or other the direct consequenee of his punishment, and that the Lieutenant General has been all along cognizant of the fact, I think may be fairly adduced from the whole course of conduct subsequently pursued by him. I would ask, if Sudds died from natural causes, by which I mean natural causes disconnected with his punishment, Why was not a regular Coroner's Inquest held on his body? Why too was he removed from the Gaol merely to die in the Hospital? Was it the same Mr. McLeay, who proposed that "Bronchites" should be falsely inserted in Mr. McIntyre's official report to him,

Inference *re* knowledge by R. Darling of cause of death.

Alleged reasons *re* omission to hold inquest.

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Alleged reasons *re* omission to hold inquest.

contrary as Mr. McIntyre states to his deliberate opinion, and contrary to what would have been and what will be, if ever he should be examined in a Court of justice, his recorded oath? Was it I repeat at the instance of this busy accessary, this would be suborner of perjury, that the dying sufferer was not allowed to run out the closing sands of his existence in peace? Was it at his instance, or was it the spontaneous act of Mr. McIntyre himself? I have, Sir, only my own surmises on the subject; but this I can say that, if Sudds had died in the Gaol, the then Sheriff of the Colony, who is an old Lawyer and a true lover of the Constitutional usage of his Country, would not have failed to have caused that Inquest to have been held on the body of the deceased, which is required by the Law. This I know, and the Government must have known likewise. The necessary result of such an Inquest would easily be anticipated by the Lieutenant General, and to relieve himself from the awful dilemma, in which it would have placed him, was of the first importance. Hence I infer that the removal of Sudds, after his recovery was hopeless, originated in a desire on the part of His Excellency that his Body, before the spark of life was quite extinct, should be placed where the Sheriff's directorial jurisdiction over ye Coroner did not exist.

Inquest avoided through self-interest of coroner.

Mr. Slade, the Coroner of Sydney at that time, being a nominee of the Governor, and elected, not as Coroners are in England and ought to be here, according to due course of Law by the freeholders of the different Counties, and holding, as he did and as all our Coroners still do, his Office merely during pleasure, It would, of course, be foreseen by His Excellency and his advisers, would be too good a judge of his own interests to convene any Inquest on any such ticklish occasion, even though no direct or indirect intimation should have been conveyed to him on the subject from Government House; a fact about which I see no mention one way or the other in Appendix B, and can only entertain my own opinion in common with the rest of the Public. This, however, I do know that His Excellency was apprised of the death of Sudds on the very day it happened, and that, before the body of Sudds had been or could have been interred many days, a Coroner's Inquest was loudly called for both by the public at large and by the Public Press. I know too that such Inquest might then, and indeed for a considerable time afterwards have been held with as much chance of the Jury arriving at a true Verdict, as on the first day of Sudds' death; inasmuch as there was nothing in the appearance of the body itself either externally or internally, which could have given the Jury any insight

Public demand for inquest.

into the real cause of this event; and their verdict consequently must have been altogether guided by the medical testimony within their reach. 1829. 28 May.

It was, whilst the independent Press of the Colony and particularly the Australian was making this public Call for a Coroner's Inquest, and whilst one universal feeling pervaded the unprejudiced part of this Community "that Sudds had sunk under the pressure of illegal punishment partaking of the character of torture," That Mr. W. H. Moore, the then Acting Attorney General of the Colony, called on me as the Bearer of an official message from the Governor, grounded on my supposed connexion with or rather influence over the "Australian" to the following effect:—"To request for God's sake that I would exert my influence with the Australian and put a stop, if possible, to the observations which it continued to make on the case of Sudds and Thompson. That those observations had been most painful to the Governor, and that His Excellency solicited my advice and would follow any advice I should give him." This was on the 6th December, nine days after the death of Sudds. I replied to Mr. Moore that the best advice I could give the Governor was the advice, which had already been offered him by the Public Press, that a Coroner's Inquest would afford His Excellency the best and indeed the only legal mode of vindication then within his reach, inasmuch as the Case of Mostyn v. Fabrigas shewed that he could not be put on his trial for any offence committed by him within His Seignory; that His Excellency was wrong in imagining that I possessed any control or influence over any portion of the public Press; that my Public Connexion* with "the Australian," it was notorious, had long ceased; and that, if I did possess any private influence with the Editor of that Paper, I should certainly not use it in the way requested by His Excellency; that, on the contrary, I perfectly approved of the comments which "the Australian" had made on His Excellency's conduct; and that in fact I considered that conduct such a flagrant violation of all law and humanity that I would myself transmit a Letter of impeachment through His Excellency to the Secretary of State for the Colonies. This I requested Mr. Moore would intimate to His Excellency as my reply to his Message. In a few days afterwards, upon casually meeting Mr. Moore, I asked him, if he had conveyed my message to the Governor, when he replied that he had; and that the Governor considered my intimation "manly and honorable." Up to that period I had visited at Government House as other Gentlemen of the Colony, and had always been received and treated by His Excellency with marked hospitality and respect. All private

Request for assistance of W. C. Wentworth to prexent criticism in press.

Reply by W. C. Wentworth to request.

* Note 231.

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Cessation of intercourse with R. Darling.

Persecution alleged by W. C. Wentworth.

communication, however, immediately ceased between His Excellency and myself, and I have since been exposed to an incessant system of persecution, which I shall probably do myself the honor of shortly submitting to your consideration in the first instance, and afterwards, if it should be necessary, to the consideration of Parliament. I only allude to these things at present to shew you the origin of that course of oppression, which has been adopted towards me here and of that system of vituperation, which I have good grounds of belief will be developed in some of His Excellency's Dispatches now lying in your Office. It cannot of course be expected that I could vindicate my character against covert attacks of this nature. Against a Public representation indeed From such a quarter, it is probable that I should not condescend to resort to any other mode of vindication than is to be found in the Tribunals of my Country. I am in fact, Sir, as little disposed to recognize the existence of any legitimate authority over me or my conduct in any Secretary of State, as in any Governor. I feel myself only subjected to that fixed rule of action, which is prescribed by the laws of my Country to all the King's Subjects, or which is enjoined by the usages of Society and in well regulated minds have the moral force and efficacy of Law. Nor is it, Sir, as a private individual seeking private redress as against another private individual, that I shall at any time crave your protection or the judgment of Parliament, but as against the public oppressions, which have been practised by the Governor towards me *colore officii*; Oppressions to effect which the power delegated to him by His Majesty has been basely prostituted; Oppressions which I know to be public crimes, and for which the Tribunals of this Colony can afford me, as I am aware, no redress against the Governor himself, and have, in one instance, the only one in which I have ever resorted to them, refused me that redress against the Governor's responsible adviser and agent, which I feel satisfied would not have been withheld from me on a like application against any of His Majesty's confidential advisers in England. My own private injuries I have, up to the present hour at least, been always able to avenge myself; And, as far as Lieutenant General Darling is concerned in these, the day of His private accountability to me will be the day of his removal or departure from this Government. I make this brief allusion to myself to account for the vituperation, which has been heaped upon me, and to shew the source and the only source whence it has sprung; For from the day Mr. Moore called upon me, as before stated (at which time it is evident from the very nature of the message of which he was the Bearer that the Governor and myself were on friendly terms) up to the present hour, I

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have never had any personal difference with His Excellency, or done any act which could justly subject me to His public displeasure. All the persecution and vituperation then, which have followed me since the 6th December, 1826, are referrible solely to that "manly and honorable" course of conduct, which, according to His Excellency's admission, I had adopted towards him on that day.

Persecution alleged by W. C. Wentworth.

From this statement, Sir, it will be obvious to you that, on and before the 6th of December, at a time when the body of Sudds might have been very easily disinterred so as to allow a Jury to go through the mere form of a view of it (for as I have proved a view in such a case could in law have amounted only to mere form), a Coroner's Inquest had been called for publicly by the Press, and this Call privately enforced by me. Instead however of this old constitutional mode of Enquiry, the Lieutenant General, it appears, thought fit to convene on the very self same 6th of December an Executive Council, presided at by His Excellency himself and consisting besides, as I am informed, of Chief Justice Forbes, Colonel Stewart the then Lieutenant Governor, and Mr. McLeay the Colonial Secretary. This Council adjourned over and closed its Sittings on the ninth of the same month, when they recorded an opinion, beneath the shelter of which His Excellency without doubt expected to be as safe at least as beneath any verdict which he could expect from a Coroner's Inquest. At the tenor of this "recorded opinion," I should have felt no surprize though it had amounted in substance to a verdict of "Not guilty," knowing as I do the pliant elements of which the majority of the Council were composed, the substantial thousands of acres which one of the members the Lieutenant Governor had already received, and the equally substantial thousands, which were spread in the perspective of another of them, I mean the Colonial Secretary. My only surprize is that the Chief Justice should have so far descended from his high estate as to lend the sanction of his presence and his name to such a course of proceeding. He at least ought to have known better things. It was, I conceive, his Duty as Principal Coroner of the Colony to take care that no mock tribunal should be substituted under his sanction for the ancient Inquest of the Common law; It was his duty, I conceive, as principal law adviser of His Excellency to have pointed out to him the gross indecency and unconstitutionality of presiding in a Case, where he himself was to be judged; It was his duty, I conceive, after the Case of Sudds and Thompson was thus brought under his official notice, to advise His Excellency against any further perseverance in the illegal punishment which the survivor Thompson was undergoing; It

Public demand for inquest.

Inquiry by executive council.

Influence of R. Darling on members of council.

Criticism of action taken by F. Forbes.

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Criticism of action taken by F. Forbes.

was his duty finally, I conceive, to have protested against the whole investigation as a solemn mockery of justice, as being without the Province of the Executive Council, and as propounding matters therefore upon which the Members of the Council were not competent to offer an opinion. If the Chief Justice was present at the Sittings of the Council and failed to adopt the measures, which I have just pointed out, and to enter his solemn protest against the most unconstitutional precedent thus sought to be established, He is, I conceive, unworthy the dignified office which he fills, and has neglected upon an important crisis one of the most important duties which it had devolved on him. This charge against the Chief Justice, however, rests wholly on the Hypothesis of his having been present at the Council, and having acquiesced in the proceedings and opinion recorded by it. And as, Sir, I consider it but fair that he should have an opportunity afforded him of explaining his conduct on this occasion, It is my intention to transmit him a Copy of those Passages of my Letter which refer to him, and it will be then for him, Sir, to forward to you through His Excellency or otherwise at his discretion such explanations or defence as he may deem advisable. The Passages, which I intend to extract for the Chief Justice's consideration, and also my accompanying Letter to him will be found in Appendix G, hereunto annexed.

Extracts to be transmitted to F. Forbes.

Constitution, jurisdiction and province of executive council.

Before I advert to the contents of this "recorded opinion," it may be as well, Sir, to draw your attention for a moment to the constitution of the body from which this opinion emanated; What is the intention of an Executive Council; for what was it created; what is its jurisdiction or province? It is clear that, in contemplation of law, such a body has no legal recognized existence whatever, and that its acts cannot bind any other of the King's Subjects than such of His Majesty's Civil Officers as His Majesty, by his instructions under His Royal Sign Manual or otherwise, has subjected or may hereafter subject to its control; and that it cannot bind them any longer than their respective offices continue. These instructions, I believe, have rendered it imperative on the Governor of this Colony for the time being to advise with the Executive Council on certain matters, and to act upon the opinion of the majority of its members in such matters. In every instance however, the duty of that Council, as it has been well observed in a late number of the "Australian," is to give advice to the Governor upon matters which are prospective, to propose remedies for evils which are likely to occur, to divide the responsibility of the Governor in all acts to be performed, upon which he may require their opinion, but not to sanction the past or to take upon themselves any responsibility for what has

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been done without asking their advice. It presupposes indeed a logical and physical impossibility that their opinion "recorded" or otherwise could have relation backwards, so as to cover any act to which they were not originally privy, or at least which had been perfected without their sanction. Viewing then the "recorded opinion" of the Council in the Case of Sudds and Thompson in connexion with the powers delegated to the Council by His Majesty, one or other of these dilemmas necessarily occurs out of any possible state of things, which could have existed at the time this "recorded opinion" was given. Either the Council had been consulted by the Governor and had sanctioned the "commutation of punishment" as it is termed, which Sudds and Thompson underwent, or the Council had not been consulted upon and had not sanctioned it. Upon the former supposition, the Council would be *participes criminis,* and their "recorded opinion" would only be an insidious attempt to conceal their own iniquities. Upon the latter supposition, their "recorded opinion," as far as it may attempt to exonerate the Governor, involves as I have shewn a logical and physical incompossibility. Having thus shewn you that the Executive Council, in expressing this "recorded opinion," wandered altogether out of their orbit, It would seem to follow that the very act of assembling the Council to inquire into and pronounce an opinion on the circumstances attending the death of one of His Majesty's subjects amounted in fact to an usurpation of the jurisdiction, vested by Law in a Coroner's Inquest, and, if I am not greatly mistaken, amounted in law to a high misdemeanor not only on the Governor, who convened the Council for such a purpose, but in every Member of it who lent himself to this most illegal proceeding.

Invalidity of opinion of council.

Convention of council a high misdemeanour.

The names of the Members, who were present, I have already stated and also the grave nature of the subject which was to be enquired into. This indeed is apparent on the face of the published proceedings of the Council in Appendix B. The Witnesses called it appears were Martin Wilson the Under Gaoler, John Toole first Turnkey, John Thompson Medical Attendant, Mr. McIntyre Assistant Surgeon, and the Captain Dumaresq and the Mr. McLeay, to whom I have had such frequent necessity to make allusion. It will be seen that all the witnesses examined, except Mr. McIntyre, to whose Evidence I have already adverted at some length, and Dr. Bowman, whom it was not deemed expedient to interrogate to a single material fact, were either mere underlings or, as I have already shewn, accessaries in the crime, which was to be enquired into. Every person present besides was an Officer of Government, and not a Witness was examined who was not liable to be displaced from his situation at least for a

Witnesses called by council.

Status of witnesses.

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season without any enquiry. How far this knowledge must have operated on the nerves and conscience of the Under Gaoler, Turnkey and Medical Attendant, whilst they were giving their statements under the very Nose of His Excellency, exhibiting himself as he did to their astonished view at one and the same time as the President of this Tribunal and the Prisoner to be tried by it, it is not difficult to imagine; and my surprize is not that these poor intimidated witnesses, under such circumstances, should have said so much, but that they did say so little. The substance of their statements, it will be seen just now, is but little favorable to His Excellency; a fact which I can only account for either from the utter impossibility, in which they felt themselves of perverting the few simple facts of the Case, or from their not having been in the hurry or oversight of the Enquiry duly reviewed before hand in the Colonial Secretary's Office by the Colonial Secretary himself. But the gross indelicacy of resting such a Case on the testimony of such witnesses proves the sad dilemma, in which the Governor knew himself to be placed; when such men as these were selected by him in exclusion of Witnesses so much more above the influence of intimidation or favor such as the Sheriff, Dr. Mitchell and the Officers present on the Parade; Witnesses who might have been called, and I assert would have been called had the truth only of the circumstances, which led to the death of Sudds, been sought after.

Influence of R. Darling on witnesses.

Evidence adverse to R. Darling.

Witnesses available, but not called.

But truth and a "true Verdict" were not the aim of His Excellency. His conscience must have satisfied him that he had no chance of acquittal before the only legal Tribunal, which could have been resorted to; and that the opinion of the public recorded by the Public Press could be got rid of in no other way than by a Counter recorded opinion by those of his Creatures, who composed the Majority of his Executive Council. To the good and sufficient consideration, which two out of the three Members of this very select body then present had or expected to have for their votes I have already adverted; And I may add with respect to both these Gentlemen that every reasonable anticipation, which they could then have formed, has been most abundantly realized. Having premised thus much, I will now revert to the "recorded opinion" of the Council and examine as well its exertions as the evidence on which they rest.

Alleged object of R. Darling in convening council.

The "recorded opinion," then, after fixing the various periods of Sudds' confinement in the Gaol Hospital, goes on to state: 1st. That no report was made by the Surgeon to the Government at any time of Sudds' illness, nor was it known till after his decease. Upon what this assertion of the Council rests certainly does not appear from any evidence, which is to be found in the

Opinion of council *re* illness of J. Sudds.

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published Minutes of their Proceedings in Appendix B. On the contrary, it is entirely at variance as well with that evidence, as with the statement of the then Sheriff in Appendix F. The Evidence of John Thompson is that, "on the 23d November, Sudds was brought to the Hospital between twelve and two o'Clock, and placed in Bed. Mr. McIntyre saw him immediately, and ordered his irons to be taken off. Mr. Toole, to whom this order was given, replied that the irons had been put on by the direction of the Government, and he could not remove them. Mr. McIntyre observed the irons are too heavy to be worn here, and they must be taken off whilst he is in the hospital at any rate." The evidence of Toole is "the irons were removed by me on Thursday the 23rd November about four o'Clock." Mr. Mackaness states on the 23d (meaning the 23d November) I saw the Prisoners in Gaol; Sudds was sitting on the stones; he looked very ill, complained much, and said he should die if his Irons were not taken off; I told him I would send for the Surgeon, who might order them off if necessary; but, as I understood the Governor had ordered them on, I could not relieve him. It would seem then from the Sheriff's statement that he thought that the onus of taking off the Irons rested with the Surgeon, and from Thompson's Evidence that, the Surgeon's opinion being the same, he ordered the Irons off between twelve and two o'Clock, but that Toole the Turnkey refused to remove them. It is not stated whether Toole was present when the Sheriff told Sudds "that he would send for the Surgeon, who might order them off." If Toole was present, it is clear he set the Sheriff's opinion at defiance. One thing, however, is obvious that the Government possessed a power superior to the Sheriff in the Gaol itself; and that two hours at the least, perhaps three or four, elapsed before the necessary orders could be obtained to relieve Sudds from his Torture. What then becomes of this part of the "recorded opinion"? It may be true "that no report was made by the Surgeon to the Government at any time of Sudds' illness"; but it cannot be true that this illness was not known to some Member of the Government from other sources at least, when the Irons were ordered off.

Criticism of opinion as at variance with evidence.

It will be seen indeed that the Governor's Dispatches contain no such assertion that the illness of Sudds was not known to him "until after Sudds' Decease." All the Governor asserts is that "no report was made by Mr. Bowman the principal Surgeon or his Assistant of the illness of Sudds; consequently the Government had no reason to suppose he was unwell." This part of His Excellency's second Dispatch evidently means to confine the disavowal of any knowledge of Sudds' illness up to and at the

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time of the "Ceremony." It does not attempt to push the Governor's ignorance of this fact beyond that date; and it is entirely silent as to when his knowledge of the last illness of Sudds really commenced. If that Paragraph, therefore, of the "recorded opinion" to which I am adverting, means to exculpate the Governor further than he has endeavoured to exculpate himself in his Public Dispatches, then the assertion it puts forth is not only opposed to that part of the evidence submitted to the Council, which I have referred to, but it is wholly unsupported by any other evidence to be found among their published Minutes. Either then the whole of the evidence given before the Council does not appear in the Parliamentary documents and Proceedings in Appendix B, or this assertion of the "recorded opinion" is totally destitute of foundation. There is however in this Paragraph of the "recorded opinion" an evident ambiguity (the result of accident or design) from which the Governor's dispatch is free. If the Paragraph means only that no report was made of Sudds' illness previously to the 22nd November, then the Dispatch and it agrees; If it means anything more, and be intended to insinuate that the Governor was not aware of the last illness of Sudds, until after his Decease, why then I leave the Council in that dilemma which I have stated; or else the minutes and proceedings of the Council have been forwarded to the Secretary of State for the Colonies by His Excellency, garbled and shorn of their fair proportions; or there is another alternative affecting yourself, Sir, in your high office, which, as I have not the indecency to contemplate its possibility, I will not commit to Paper.

Alleged want of evidence for opinion.

Ambiguity in words of council.

Putting however the widest construction on this Paragraph and supposing it to have been based on some statement, which ought to have appeared among the published Minutes of the Council but has been kept back, the only tendency of this part of the "recorded opinion" is to relieve the Governor from the suspicion, which is generally entertained here, and which I have not hesitated to avow as my deliberate conviction, That Sudds was removed in a dying state from the Gaol with the privity of the Governor and merely that the body might not be subject to the Coroner's Inquest.

Tendency of opinion.

Reason alleged for removal of J. Sudds to hospital.

The death of Sudds, I think I have already proved, is not to be ascribed to any ailment under which he was laboring on or before the 22d November. The omission of the Surgeons, therefore, to report an illness, which was deemed by them of no importanee, is only material, as it would certainly have east a deeper shade of inhumanity over the Tragedy, had the "Ceremony" been directed with a knowledge that either of the persons, who were to undergo it, were at the time in a state of bodily ailment. 2nd.

Omission of surgeons to report illness.

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Opinion of council *re* chains.

"The recorded Opinion," after noticing the weight and dimensions of the Chains exhibited to the Council, a subject to which it is needless to recur, next states "that they" (meaning the Chains thus exhibited before the Council) "were evidently intended to produce an effect on those, who were to witness the 'Ceremony,' and not to subject the Prisoner to any extraordinary punishment." Upon this Paragraph, it is only necessary to observe that the Council could have known nothing of His Excellency's intentions, except in as far as he may have vouchsafed at this solemn farce to explain them, unless perchance they had attempted to form an opinion of their own, and had gone on to judge men, as other Tribunals are wont, not from their words but from their acts. Had these, which our law wisely considers the proper criteria of intention, been adverted to in this instance, the Council, I think, would hardly have ventured to insinuate (for it is at most but insinuation) that "effect on those, who were to witness the Ceremony," that is example to the Garrison, was the main object of the "Ceremony" itself. If this, however, were the main end of the "Ceremony," which after being so designated is admitted by "the recorded opinion" to have been "punishment" though not "extraordinary punishment," why did not the ceremony itself cease with the Parade? Why, after the conclusion of the "Ceremony," were not the ordinary Irons, in which Felons on the roads are worked, substituted for these fantastic embellishments? Why were these instruments of torture persevered in until Sudds was dying, and again, after his death, until Thompson had contracted incipient Dyssentery? It is evident then, from the whole course of conduct pursued by the Governor towards these unfortunate men, that his original intention was not only to exhibit them to the Garrison in these Chains, but to work them both in the self same Chains on the Public roads during the full term of their sentence. This intention, indeed, is openly avowed in the concluding Paragraph of the General Order. It is useless for the "recorded opinion" to insist that "the Chains were not intended to subject the Prisoner to any extraordinary punishment." It is probable enough that, the Chains, produced before the Council and weighing 13 lbs. 12 ozs., having "been put on a Soldier of the 57th regiment selected by His commanding Officer as being of the same Stature four feet seven and a half inches and size as his Comrade Sudds, their dimensions were found to be ample and there was nothing in their construction to prevent a man lying in any posture"; supposing all this to be as strictly true as I have already proved the most material part of it (I mean with respect to the alleged weight of the genuine irons) to be

Object of use of unusual chains.

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grossly false, It still by no means would warrant the inferences, which the Council have drawn from this exhibition before them, that there was nothing in their construction to "prevent a man from lying in any posture," and again that they were not intended "to subject the Prisoner to any extraordinary punishment." In reply to these inferences of the "recorded opinion," it has well been urged, "did this man remain in the irons for hours?" Put even a Boot on that is not long or large enough for the foot; the elasticity of the human frame will bear the pressures for a short time without being conscious of uneasiness; extend the time an hour to hours, the pain becomes excruciating. But it is said the men were of the same dimensions. Were their necks the same size? Were their ancles? The evidence of Thompson puts it beyond doubt that they were not, and that therefore the very premises, on which the Council built this part of their "recorded opinion," are altogether fallacious.

Erroneous conclusions drawn by council.

But it is needless to combat any further either the assertions or inferences of the "recorded opinion." To its speculations and mis-statements, I opposed facts. The punishment, to which the "Chains" did subject Sudds, is sealed by his death. The punishment, to which "the Chains" did subject Thompson, was in the expressive language of the sufferer himself "intolerable," and would have been sealed by his death also but that a mysterious providence willed it otherwise. Slender and futile, however, Sir as are the grounds of palliation for His Excellency's conduct, which are exhibited by the proceedings and "recorded opinion" of the Executive Council, what guarantee is there that the genuine proceedings and opinion of that body have been transmitted by His Excellency to the Secretary of State for the Colonies? The originals of their documents, I presume, are preserved as a matter of course among the Archives of the Council; and what could be more facile than for His Excellency and Mr. McLeay (seeing that Colonel Dumaresq another of his Excellency's brothers in law was then Clerk of the Council, and I suppose, *virtute Officii,* keeper of the records) to pick and cull from the proceedings and "recorded opinion" what best suited His Excellency's case, and to transmit some or all of these Documents in this garbled and imperfect state for the information and edification of the Authorities at home? To Gentlemen, who could so opportunely cause a set of irons to be fabricated in a previous stage of this Tragedy, the fabrication or alteration or suppression of "minutes of proceedings or recorded opinions," besides preserving throughout the unity and consistency recommended by the Poet, would evidently be comparative nothings. I must here again deplore that I should be obliged to

Effect of punishment on J. Sudds and P. Thompson.

Alleged alteration or suppression of documents.

express myself in such terms of the persons, who still virtually compose "the Executive Government of the Colony"; but the fault rests with those in the Mother Country who appoint such men, not with those here who are unwillingly submitted to their mis-rule. 1829. 28 May.

Whether the proceedings and recorded opinion however of the Executive Council, as published in the Parliamentary Papers, be genuine or not, Thus much is evident, that even in their present state they afford no sufficient ground of justification for the Lieutenant General's conduct, and that they not only leave the death of Sudds, where Mr. McIntyre's evidence and the dying declaration of Sudds' himself, have left it at the Lieutenant General's door, but, what I conceive to be a still worse predicament, they so leave it coupled with a necessary admission, flowing from the very assembling of the Executive Council, that the death of Sudds required investigation; that is, required what the Lieutenant-general had the power to direct; what, as I have proved, he was called upon to direct; and yet would not permit in the usual and legal way. Failure of council to justify conduct of R. Darling.

The death of Sudds, then, having been, as I conceive, thus clearly occasioned or accelerated by the punishment inflicted on him by authority of the Governor on the 22d November, The next question is, what offence does it amount to in law? Is it murder? I think it is, and must be so held. In cases of murder, according to the Charge of Lord Chief Baron McDonald in Governor Wall's Case, "The first thing is to establish the fact that the Prisoner was the cause of the death of the person deceased. That being done on the part of the public, it throws upon that individual the burden of proving either that it was justifiable, or that it was necessary, or whatever qualification that fact may receive, and it is from evidence on his part that he is to explain that to the Jury." The fact that the Lieutenant General was the cause of the death of Sudds having been, as I conceive, fully established, "the burden of proving that it was justifiable or that it was necessary, or whatever qualification that fact may receive," according to the above charge of My Lord Chief Baron McDonald, is thrown upon the Lieutenant General. This brings me to an examination of the grounds of justification, which are relied on in His Excellency's Dispatches; And these are First: that the punishment inflicted on the deceased Sudds by virtue of the General Order was authorised by the 6th Section of the Act or Ordinance of the Legislative Council, No. 5 of the year 1826. 2ndly. That the punishment was necessary "to check the dangerous disposition which had manifested itself in the Troops." The Lieutenant General's defence then is twofold. R. Darling charged with murder. Grounds for justification of of punishment.

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embracing matter of law and matter of fact. I will advert to these points in the order in which the Lieutenant General has advanced them. And first as to his defence in law arising out of the 6th Section of the before mentioned act* or ordinance of the Legislative Council. It will be seen from the very language of this Section that it is not a substantive and independent enactment, but contains, in the words "Penal settlements or places as aforesaid," direct reference to some one or more antecedent parts or Sections of the same Act or Ordinance. To have enabled my Lord Bathurst, therefore, to judge of the validity of this ground of defence, it was indispensable that the whole Act or Ordinance (of which this Section formed but a part and a small part) should have been among the Enclosures subjoined to His Excellency's Dispatches in Appendix B. This course, however, the Lieutenant General was perfectly aware would not answer his ends; and I do not hesitate, Sir, to denounce to you as a most uncandid, dishonorable and infamous trick; A trick which could only have arisen in a consciousness of guilt; the suppression by His Excellency of the preceding five Sections of the Act or Ordinance in question, which would have satisfied the most superficial enquirer of the illegality of his conduct, and the appending to his dispatches the sixth and last Section only, because it was the only Section from which even a color of justification could be drawn. It is, I conceive, to this artifice, coupled in some degree with the hasty and immature consideration, which the Lord Viscount Gooderich at the time the Lieutenant General's dispatches arrived in Downing Street was enabled to bestow on them in consequence of the pressure of weightier business, That whatever official sanction or approval may have followed is mainly, if not wholly, to be ascribed. This conclusion then naturally raises the question, "What does trickery of this kind amount to?" And I take it that, involving as it did in this instance a wilful and material concealment of the Law, it clearly belongs to that class of frauds which are termed "Suppressio veri," And which in law as in morals are held sufficient to vitiate any contract based upon such fraud, with whatever solemnity the Contract itself may otherwise have been completed; What would suffice to cancel a Contract will of course Warrant the revocation of an opinion; And this consideration is the more important, inasmuch as it would have relieved Lord Viscount Gooderich himself from any difficulty in retracing his steps, and consequently will do away with any delicacy, which you, Sir, might feel in being compelled to condemn what His Lordship, under a Suppression and ignorance of the truth, may have commended.

Effect of alleged suppression of facts.

* Note 229.

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The whole of the in part suppressed Act or Ordinance in question will be found in Appendix C, and the objects of it may be briefly summed up thus:

Objects of act of council, 7 Geo. IV, No. 5.

1st. To interdict all unauthorized intercourse with the Penal Settlements, allotted for the transportation of the higher Classes of Offenders in the Colony, and legally established for the first time by the Proclamation of the 15th of August, 1826.

2ndly. To legalize by necessary implication the transportation of all offenders sent to these Settlements before the date of that Proclamation; to subject them to the like laws, rules and regulations as future Transports; and to indemnify all Officers and Ministers of Justice, who had illegally authorized or acted in their transportation.

3dly. To prescribe the mode, in which all original or commuted sentences of transportation should be thenceforth carried into effect.

4thly. To give the Judges of the Supreme Court and the Justices in Quarter Sessions in all minor offences a similar latitude of discretion in the awarding of punishments in the case of Convicts or persons, who had been Convicts, as is vested by Law in the Judges of the King's Superior Courts, and the Justices in Quarter Sessions in England, in the case of offenders there of the like degree.

5thly. To mitigate to a certain extent this discretion in favor of "the free born and the come free," in other words in favor of "the Colonial Youths and Emigrants."

6thly. To enable the Governor legally to withdraw Persons transported to any of the Penal Settlements established by the aforesaid Proclamation, by way of commutation of punishment.

Act inapplicable to case of J. Sudds and P. Thompson.

This Epitome of the Act or Ordinance will shew at one glance that it delegates to the Governor no authority to exercise any part of that power, which he assumed over Sudds and Thompson in His General Order; These men on the 22d of November, the day of the performance of the "Ceremony," it is admitted were lying in Gaol under sentence of transportation for seven years, passed on them by a Court of Quarter Sessions. It will be evident therefore that the 6th Section of the Act or Ordinance relied on has no reference to Persons so situated. It merely empowers the Governor "to withdraw any Person or persons, now or hereafter to be transported or sent to any Penal Settlement or place as aforesaid, and to employ him her or them either in Irons on the public roads or works or in the ordinary service of the Crown, or to assign him, her or them to Settlers or others to be dealt with in all respects as if he, she or they were under sentence of transportation from England." The operation of this

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Section, therefore, by the express terms of it, is limited to the withdrawing of Persons then sent or transported or thereafter to be sent or transported to Penal Settlements. The sending or transportation, then, is a condition precedent to the exercise of the power of withdrawing vested in the Governor, according to the plain words of the Act itself. The word "withdraw" is of no equivocal meaning; neither persons nor things can be withdrawn whence they never were; To withdraw, and not to send or keep back, involve even in common parlance the most palpable difference. They are not and never were considered to be convertible terms by any Prose Author, as far as I know, in our language; and this difference, plain and obvious of itself, is enforced by the words in immediate context with the word "withdraw," vizt., "any person or persons now or hereafter to be transported or sent to any Penal Settlement or Place as aforesaid," which words, it will be seen in their natural transposition and supplying the elipsis, stand thus, "any person or persons now transported or sent to any penal Settlement or place as aforesaid, or any person or persons hereafter to be transported or sent to any Penal Settlement or place as aforesaid." If the 6th Section of the Act, therefore, upon which the Governor founds his justification in law, contained a substantive and independent enactment and could be construed *per se* and according to its mere letter, without advertence to any antecedent matters, It obviously contains nothing that could warrant in the opinion of any man, who understands plain English, the punishment inflicted on Sudds and Thompson by virtue of the Governor's General Order. On the contrary, the operation of this Section is confined by the very words of it to persons actually under transportation to some one or other of the penal Settlements or places appointed for Transportation by the Proclamation referred to in the Act or Ordinance itself.

But, as I have already premised, the 6th Section contains words of reference to some antecedent Section or Sections of the same Act, and must therefore, according to the recognized Rule of law, be construed if possible in conjunction with the other parts of the Act, and so that the whole Enactment may blend and harmonize together; Now the only antecedent Sections to be found in the Act, which are *in pari materiâ*, and which therefore can be taken in connection with the 6th Section, are the 2nd Section and the 3rd. The 2nd Section, as I have already premised, legalizing "by necessary implication the transportation of all Offenders illegally sent to the Penal Settlements or places appointed by the Proclamation of the 15th August, 1826, before the date of that Proclamation, and subjecting them to the like laws, rules

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and regulations as future Transports"; And the 3d Seetion, "prescribing the mode in which all original or commuted sentenees of Transportation should heneeforth be earried into effeet"; The 4th and 5th Seetions involve no power of Transportation, but on the contrary invest the Judges and Justices with eertain diseretions or powers of eommutation for transportation, whieh it is imperative on them in all Cases to exereise.

If the 6th Seetion, then, be taken in eonjunction with the 2nd and 3d Seetions of the same Act, it is elear that there is not only no repugnancy between them but that they harmonize in all their parts; and, what is more, they establish in eonnection with the 4th and 5th Sections of the same Act a regular gradation of punishment aceording to the scale of Crime, and beginning with "orders for transportation made by the Governor as a commutation for and instead of eapital punishment," and ending with "imprisonment and hard labor within prison walls only, or in the ordinary employment of the Crown, or of the Assignees of the Governor."

Looking indeed at the 3d and 6th Seetions of the Aet together, it is impossible that the interpretation, sought to be put on the latter by the Governor, ean stand without totally abrogating the former. But the two Seetions may stand aeeording to my interpretation, and establish a perfeet harmony and eoncordance throughout the Aet; whereas, if the Governor under the term "withdraw" ean keep baek from transportation, the 3rd Seetion, although couehed in the most imperative terms, becomes a mere dead letter, and the Governor stands at onee invested with a discretion paramount to all the Judges and Justiees of the land.

To suppose, however, that the Aet meant to invest the Governor with any such diseretion as to the alteration of punishments, is not only to shut one's eyes to the Plain English of the 4th and 5th Seetions of the same Aet, by which the only discretions to be found in the Aet, as to the degree of punishment to be awarded, are given to the Judges of the Supreme Court and the Justiees in Quarter Sessions, but also to presuppose that the Governor is more competent to apportion the punishments due to offenders than the Courts before whom they are tried; And that the local Legislature, satisfied of his superior competency, meant to delegate to him the power either of adding to or detraeting from the sentenees of these Courts at his pleasure, a supposition, Sir, which I am sure you will not expect me seriously to combat. It is here that the 6th Section gives the Governor power, or, what is the same thing, a discretion to withdraw Offenders aetually at Penal Settlements from a higher degree of punishment to a lower, or in other words to commute the punishment of persons

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so circumstanced; but the reason of this is obvious; after the final sentence of a Court of competent jurisdiction, such a power or discretion as this (if necessary at all) could be constitutionally lodged only in the hands of the Executive. To place it in the hands of Judges, after sentence pronounced, that is, after the judicial function had terminated, would be to invade the Royal Prerogative, and to erect Courts of Justice at once as to the Executors as well as the dispensers of the law.

Then was it necessary to invest the power of withdrawing Culprits from penal Settlements any where? The answer is that, if such a power did not exist, the principle of reformation would be altogether excluded from the system of punishment enforced at those Settlements, and would consequently be repugnant to the System of punishment enforced here. But, if it be necessary to adopt such a principle in reference to offenders undergoing punishment in the elder Colonies in this part of the World, it cannot be less necessary that a modification of the same principle (and it is only a modification of it that is to be found in this Act or Ordinance) should be applied to those Penal Dependencies, which are merely stocks from the same root. It may, indeed, be fairly contended that, with respect to the Case of offenders transported from any of the elder Colonies to any of such Penal Settlements for a first offence at any time committed by them, The 6th Section should *stricti juris* have gone much further, and have empowered the Governor for the time being (if he does not already possess such a power) to extend to Convicts of this Class, by way of reward for exemplary conduct, the like remissions of sentence absolute or conditional, which are extended to Convicts of the same Class here. It is clear then that the authority, which is thus vested in the Governor of withdrawing Offenders from Penal Settlements to the Elder Colonies by way of commutation of punishment under the 6th Section of this Act or Ordinance, is but a modification of that principle of reformation, which it is one of the main objects not only of transportation, but of the whole System of secondary punishment recognized by the English laws, to promote; and that, if such a principle had not been recognized in the system of punishment, which prevails in the penal dependencies of these Colonies, the system itself would not only not be consistent with one of the great principles interwoven in the laws of England, the reformation of offenders, but would moreover be in direct opposition to the system of punishment which prevails here.

But there was another reason for delegating to the Governor this power of withdrawing offenders from these "penal Settlements or places" quite wide of their good conduct, a reason which had

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operated strongly on the mind of His present Excellency shortly after his accession to this Government, and which he doubtless contemplated might prove equally influential with him again. Acting on the Proclamation in Appendix H, the Governor not very long before the Publication of the Act or Ordinance of the Legislative Council No. 5, with a view either to lessen the expence of supporting culprits at Penal Settlements, or to provide for those public and private Calls for Convict labour, which existed at that time, took upon himself of his own authority to remove upwards of five hundred Convicts from Port Macquarie, and to distribute among Settlers and in the public Gangs a set of the most desperate Ruffians (as was proved by the sequel) that were ever turned loose upon any Society. This act of the Governor would have been clearly illegal, if these Ruffians had been transported to Port Macquarie by due course of law, and Port Macquarie itself had been at that time legally erected into a Penal Settlement. But this very Act or Ordinance itself amounts to a Legislative declaration that no penal Settlement then legally existed in these Colonies for the reception of transported offenders, and consequently that no sentence of transportation could before the publication of that Act or Ordinance legally attach. But, as soon as Penal Settlements were legally established under the Governor's proclamation and in pursuance of His Majesty's Order in Council authorized by Act of Parliament, It was doubtless foreseen that offenders could no longer be removed for purposes either of reformation or economy from any such Settlements without the Legislative provision contained in the 6th Section. The Section itself then was clearly necessary to accomplish the views whether of reformation or economy, which might at any time actuate the Executive Government of the Colony.

Viewing then this Act or Ordinance of the Legislative Council in all its various bearings, it will I think, Sir, be manifest upon my reading of it, which is according to the plain import of the plain English in which it is couched, that it is both perfectly consistent with itself in all its parts and perfectly in union with the principle and policy of the laws of England; While, on the other hand, the interpretation sought to be affixed to it by the Governor is not only opposed to the plain letter of the Act or Ordinance itself, but raises such a repugnancy between the 3d and 6th Sections of it, that they cannot by possibility be construed together. For if the verb "to withdraw" in the 6th Section is synonymous with the verbs "to keep back," or "not to send" or "to retain," And if the Governor is empowered by it not to convey or transport to Penal Settlements persons duly under sentence or order of transportation, it follows necessarily

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that the direction, contained in these words of the 3d Section, vizt., "that every sentence of transportation or removal, passed or to be passed on any offender in any Court of competent jurisdiction in New South Wales, and every order for transportation made or to be made by the Governor of New South Wales for the time being as a commutation for or instead of capital punishment shall subject the offender to be conveyed to such of the said places, as the said Governor for the time being shall direct and appoint, and that it shall be lawful for the said Governor to cause every such sentence or order of transportation or removal as aforesaid to be carried into effect at such time and in such manner as the said Governor for the time being, by any order or orders in such case made, shall direct." It follows I repeat that the whole body of this most prominent and highly penal Section, forming as it does the very groundwork of the Act itself, and neither vesting nor intending to vest any discretion in the Governor whatever, except as to the time, manner and place of carrying these sentences or orders of transportation or removal into effect, becomes a mere nullity, and that it stands altogether repealed by the 6th Section, According to the well known rule of law *leges posteriores priores contrarias abrogant.* A further absurd consequence of this reading of the Act or Ordinance would be that all the Penal Settlements or Places, legalized by the Governor's Proclamation* of the 15th August, 1826, in pursuance of His Majesty's order in Council of the 16th November, 1825, would be rendered inoperative, inasmuch as the 3d Section, which is meant to give the Authorities therein mentioned power to transport Offenders to these places or Settlements, a power without which in other words these Settlements or places could not be legally peopled with Culprits, would be in law repealed, and could not be legally acted upon, until another Act or Ordinance could be passed containing a sixth Section with more apt words in it than "it shall be lawful for the said Governor to withdraw," words, which if "withdraw" means not to send, leave him no discretion, but render it imperative on him, according to the rule of construction which prevails in the interpretation of statutes in England, not to send "any person or persons now or hereafter to be transported or sent to any penal Settlement or place as aforesaid." The Act or Ordinance in question, therefore, according to the meaning of the 6th Section contended for by the Governor, would not only be *felo de se* in the most vital parts, but would be counter to the objects contemplated as well by His Majesty's Order in Council, as by the Proclamation of the Governor, both of which it recites.

* Note 232.

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But it may be replied that the Sentences of Transportation, passed by the Quarter Sessions on Sudds and Thompson, was illegal under the 5th Section of the same Act or Ordinance, and that, if the Governor was not justified in keeping back from transportation offenders legally sentenced by a Court of competent jurisdiction, he was justified, at all events, in keeping back Sudds and Thompson, whose sentence was illegal; In considering this position, it is not necessary to determine whether it was competent to the Governor to extend to those men an absolute or partial remission of an erroneous judgment. The question in this Case is, could the Governor of his own authority do away with one sentence, it not being legal, and substitute in its place another sentence equally illegal. If the Governor on perusing the 5th Section had perceived the error, which the Chairman of the Quarter Sessions had committed, and had bonâ fide taken upon himself to rectify that error and to remit these men to the proper punishment, that ought to have been awarded under the Act, his conduct though illegal, and an assumption of the authority legally vested in the Judges of the Supreme Court, would not have been viewed nor would it have deserved to be viewed in the light in which a disgusted and indignant community now regards it. If the legality of such an act were questionable, its humanity at least would be admitted on all hands, and shield its author from any deep reproach.

Argument on action of R. Darling due to invalidity of sentence passed at quarter sessions.

But, standing as it does, it is surrounded with no palliations. On the contrary, on every side and under every aspect, it presents its hideous deformities and developes the workings of a heart reckless alike of the dictates of justice and the feelings and rights of his fellow men; Let him turn as he will, a dilemma involves him, a dilemma equally reflecting on his breast and his heart; Either he believed the original Sentence passed on Sudds and Thompson to be legal, or he believed it to be illegal. If he believed it to be legal, why did he not carry it into effect, as he was enjoined by the 3d Section of the Act. If he believed it to be illegal, where did he find any power delegated to him by any Section of the Act to cause Men, who had come free to the Colony, or even to cause thrice convicted felons lying within prison walls under sentence of transportation, not carried into effect, to be subject either to the military "Ceremony" or to be worked in chains on the public roads for the period of their Sentences as prescribed by his General Order. I repeat where was his authority for working men lying in Gaol under sentence of Transportation, no matter, whether *de facto* or *de jure*, for the whole period of their sentence in any Chains? Where too was his authority for having placed on the bodies of these men chains

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unknown to the English law, chains of the disgusting weight and dimensions I have already particularized? It frequently happens that the aptest way to demonstrate the gross illegality of an Act is found in the means or process used to perfect it, One illegal Act necessarily involving the commission of other Acts of the same character. Applying this test to the Situation of Sudds and Thompson, at the time of the Governor's General Order, And to the measures which it became necessary to employ to effect "the Ceremony" directed by it, Sudds and Thompson, it will be recollected, were both confined in the Gaol of Sydney, subject each to sentence of transportation for seven years. These men consequently were under condemnation by the Civil or Supreme law of the Colony and were in the custody of the Sheriff, the high constitutional executor of that law, awaiting the order from the Governor for carrying their sentence into effect, as directed by the 3rd Section of the aforesaid Act or Ordinance. No other order could legally attach to them, if my reading of the Act or Ordinance be correct; And, if the Governor's reading of it be accurate, no other order could attach to them but such as directed one or other of the modes of commutation specified in the 6th Section. In this state of things, it was impossible that these men could be lawfully placed on a parade to be made any exhibition or spectacle of whatever; they were in the custody of the Sheriff, and could only be legally removed from that custody for one or other of the two modes of punishment chalked out by the act or ordinance, either the original punishment or some one of the commutations. How then were they got to the parade? The General Order itself is silent as to these details. The evidence of Thompson throws some light on the subject; but the illegal process used to accomplish this still more illegal punishment, and afterwards to replace these men in the legal custody from which they had been purloined, will be found in the statement of Mr. Mackaness, the then Sheriff, and the official letters appended to that statement.

It will be seen that the authority of the constitutional officer of the law was superseded by the Brigade Major; that the Civil power in short was on this occasion, as it has been on many other occasions during this Government, superseded by the Military; And that the Military outrage, to which the persons of these unfortunate men were subject, involved a double infraction of the law, first, in the punishment itself, and secondly, in the means which preceded and followed it.

That the Governor possessed no authority, either by virtue of his military Commission as Commander of the Forces or his Civil Commission as Governor of the Colony, to inflict any

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portion of that punishment termed "the Ceremony," which these men underwent in the presence of the Garrison on the 22nd of November, it would be a waste of words to labour. As Commander in Chief, his authority over them ceased with the sentence passed on them by the Civil or Supreme law, at least during the continuance of that sentence. His Authority over them as Governor of the Colony is derived from the Act or Ordinance in question, and that, it has been shewn, gives him no power over Soldier Culprits, which he does not equally possess over Culprits of any other class that come within its purview. All the material parts of the punishment, therefore, or "ceremony" directed by His Excellency's General Order, viz., the parading of these men before the Garrison; The stripping off their Uniform; The dressing of them in felons' clothes; The Putting of them in new fangled and barbarous Irons, differing from the ordinary irons placed on offenders of the like degree; The drumming of them as rogues out of the Garrison; All these Acts, of which "the ceremony" was composed, were, it must be self evident, not only illegal, but have no ground or colour of Justification in any lawful authority, civil or military, with which His Excellency was or is invested. I take it to be demonstrated then, upon a full view of the Act or Ordinance of Council upon which the Governor has rested his Justification in law for the punishment inflicted by his Authority on Sudds and Thompson on the 22nd of November, 1826, that this, his main ground of excuse, fails him in every respect; fails him as to the withholding of these men from transportation; fails him as to the commutation of their sentence to working even in ordinary irons on the public roads for the period of that sentence; fails him as to the "ceremony," which he caused them to undergo on the parade; fails him in fine as to the extraordinary chains, which he ordered to be placed on them.

Illegality of military punishment.

Failure of claim for justification by act of council.

His attempted Justification in fact is too puerile to require commentary, and shews conclusively the wretched shifts to which he was driven for an excuse, when he could imagine himself or hope to make others imagine that there existed any analogy between the condition of Troops stationed here in a British Colony in the most perfect state of Subjection to the Mother Country, And Troops serving in America after the Peninsular War, And deserting over to the enemy by fifties in a night. Why the Lieutenant General's very order and despatch shew that no possibility of any such desertion existed here; else why did the seven Soldiers, alluded to in these documents, commit "robberies and maim themselves to obtain their discharge from the service"? Supposing it to be strictly true that the whole of these men were

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actuated by the same "intent," where still was the just ground for inferring "that any dangerous disposition had manifested itself in the troops"? Was the example of infatuated wretches lingering out a laborious and painful exile of Seven Years among the most "atrocious criminals" likely to be so seducing? Would any but madmen prefer seven years of such toil, degradation and exile, to the comparative ease and the honorable chances of a Soldier's life here or elsewhere? Had the seven men alluded to, indeed, formed part of an invading army like those referred to in the Lieutenant General's Despatches, and this been an enemy's country, where deserters would have been received with open arms and rewarded for their treachery by grants of land and those other temptations, which proved too powerful for the patriotism of our Troops in America, the case of Sudds and Thompson, combined with the case of the other soldiers referred to, might have created some apprehension in the mind of a Commanding Officer and justified, during a state of Martial law, the application of strong measures of example and prevention. But, in a British Colony, whose tranquillity was as little disturbed as the very head and seat of the parent Empire itself, where the ordinary tribunals of the Country were in full operation and competent to visit every offence with its due weight of punishment; in a case too where the aid of those tribunals had been invoked, And where they had not only meted out that measure of penal infliction, which the law had annexed to the crime of these men, but had actually, through the ignorance of the dispenser of the law, meted out a much heavier measure; in such a country and in such a case, it would be as absurd to suppose that any parallel existed between the condition of Soldiers here and in America during the American War, As between that of Soldiers in America during the American War and in England. Nor is it credible that any such supposed Analogy could have misled the Judgment of any man of sound understanding, of any in short but an idiot or a lunatic.

Denial of statement by R. Darling *re* offences by soldiers.

But, pitiful as this excuse in fact is, I am sorry to be under the necessity of informing you that I believe it to be in part fabricated. The General Order, it will be perceived, only refers to the case of six men in the whole, including Sudds and Thompson, and only states that two others of them had "maimed themselves with the like intent of obtaining their discharge," which is imputed to Sudds and Thompson. The remaining two, John Carney and Patrick Hogan, are merely charged in the General Order with having been "found guilty of a robbery at Emu Plains, for which they had been sent to work on the roads." The first dispatch says "that seven men* had committed robberies

* Note 233.

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and maimed themselves with the avowed intention of obtaining their discharge from the Service." This obviously is false, for at the most but three of the seven had maimed themselves with any intention. But supposing the particle "and" to have been interposed between the words "robberies and maimed," through the ignorance of the writer, instead of the particle "or," and not with a view to mislead the "Home Authorities," how comes it that the case of the seventh man was not at all alluded to in the General Order? How comes it that it was not discovered at that time that John Carney and Patrick Hogan had done anything more than Soldiers are liable to do in any part of the world, I mean to commit a robbery for the mere sake of plunder, and not only without any intention of getting clear of the service, but under a hope of carrying off their booty with impunity? When did this new light as to the character of the offence of these two last mentioned persons break in upon His Excellency for the first time, and how? Why too were they not "exposed to the indigation of the Troops"? Their offence, according to His Excellency's despatch, was precisely of the same character as Sudds' and Thompson's. Why, then, I repeat, was any invidious distinction made between them? His Excellency may reply that he was prevented by doubts as to his power of dealing with them as he had dealt with Sudds and Thompson. But if, after the "ceremony" to which he subjected "Sudds and Thompson," he discovered that "Carney and Hogan" had been guilty of a similar offence with a similar intent, to have been impartial and consistent in his dispensation of Punishment, and as a further "practicable means of checking the dangerous disposition which has manifested itself in the Troops," He ought to have caused Carney and Hogan to undergo a similar "ceremony." If he was deterred from thus dealing with these men by a knowledge of the unlawful assumption of authority, he had exercised over Sudds and Thompson, why were the "instruments of torture" continued on Thompson afterwards? Why was he subsequently imprisoned in a hulk? Why is he now wearing out the period of his seven years' exile at a penal settlement? But, Sir, it is useless to dwell on the painful dilemmas in which obvious falsehoods like these are sure to involve any one, who is base enough to have recourse to them. Carney and Hogan, I have no doubt, after the fullest inquiry I have been able to make, only committed what the General Order charges on them, mere theft, because they were thieves by disposition; and the seventh man, who is introduced into the despatch merely to "create effect" by swelling the alleged number of Soldiers, who had endeavoured to get rid of the service, had maimed himself in the Hospital in

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a fit of intoxication. Sudds and Thompson then would appear to be the only two, who had really committed robberies "with the intention of obtaining their discharge from the service." "The dangerous disposition" therefore, "which had manifested itself in the Troops," stands confined to the case of four men, viz., Sudds and Thompson; and two other soldiers, who had maimed themselves to get rid of the service during the Government of Sir Thomas Brisbane, and are now, according to the General Order, following the "employment of Scavengers" among the Sodomites of Norfolk Island, As I infer, from the language of the Order itself, by virtue of some gross illegal mandate or direction of the Lieutenant General, although their offence was committed, and, as I presume, sufficiently punished in the estimation of his Gallant predecessor in Office before the Lieutenant General's arrival here. Thus much then for the Lieutenant General's ground of Justification in fact, a ground which I am sure will be equally unsatisfactory with his Justification in law in the estimation of any competent tribunal, to whom his conduct may be referred.

Inquiry *re* evidence of malice in R. Darling.

It being then, as I conceive, fully established that the death of Sudds is to be ascribed to His Excellency, and that he has not shewn it to be Justified either by law or necessity, the next and last point of enquiry is, whether this Act involves any of that express or implied malice in law, which is an indispensable ingredient in murder. Before I proceed, however, to an examination of this part of my subject, I must crave leave, Sir, to direct your attention to two gross and evidently wilful frauds, which have been artfully interwoven with the punishment of Sudds and Thompson, as described in His Excelleney's despatches, and certain of the documents referred to in appendix B, and which could only have been intended to mislead your predecessors in Office as to the nature of the punishment, which these men actually underwent. If you carefully examine the whole of the papers, which have been submitted to the House of Commons, you will perceive that all information, as to the shape and character of the chains placed on these unfortunates, is carefully excluded. The only sentence, which could lead any one to surmise that any extraordinary chains had been employed, is to be found at the close of the third paragraph of His Excellency's first despatch to Lord Bathurst, and is as follows:—"With respect to the chains which are designated instruments of torture, it will be sufficient to state that they weigh only 13 lbs. 12 ozs., and, though made with a view of producing an effect on those who were to witness the ceremony, the extreme lightness of their construction prevented their being injurious in any respect to

Description of irons omitted by R. Darling in his despatches.

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the individual." In this sentence there is, to a person cognizant of the real character of the chains but not to a stranger, a sort of obscure and distant admission that the chains alluded to in the despatch possessed some peculiarity or other. There is something of the same sort admitted, though still more obliquely, in that part of the "recorded opinion" which states "that they (the chains) were evidently intended to produce an effect on those who were to witness the ceremony." On Comparing indeed these sentences of the despatch and "recorded opinion" together, it will be found that the same words run through both; and, as the despatch is dated on the 5th December, and the recorded opinion was not concocted until the ninth of the same month, it is clear that the opinion is but an echo of the despatch; that it therefore was the act of the Governor or such of his Creatures in the Council to whom the contents of his despatch were known. This, Sir you will perceive, forms another striking demonstration of the infamous elements of which the majority of the Council were made up, and the utter worthlessness of any opinion that could emanate from such a Body. But, Sir, it is impossible that any one could collect either from the despatch or recorded opinion, or from any other document which has been submitted to the House of Commons, the most remote idea of the nature of the Chains in which Sudds and Thompson were tortured. The copy of the General Order, to which Lord Bathurst is referred, "as pointing out the proceeding that took place," is wholly silent as to the character of the chains, and would therefore serve not to strengthen, but to do away with altogether any suspicion which the despatch might have awakened as to the possibility that the chains possessed any peculiarity. In a case which his Excellency thought worthy of a despatch marked "separate"; in a case which, according to His Excellency, the "Australian" had misrepresented so as to excite an apprehension that the misrepresentation might "have an ill effect at home"; in a case in which His Excellency therefore "felt it his duty to put Lord Bathurst in possession of the facts," so that His Lordship might be able to meet the public clamour and outcry, which it was doubtless anticipated the same newspaper would be the means of exciting in England; In a case too in which His Excellency, not satisfied with one despatch marked "separate" containing his own story, afterwards "judged it adviseable to bring the matter under the consideration of the executive Council, in order that it might be fully and minutely investigated," and then to transmit to Lord Bathurst his summary of the proceedings and report of that most astute and honorable body in a second despatch, marked also I presume "separate"; in a case in

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Description of irons omitted by R. Darling in his despatches.

which His Excellency was desirous to do away with newspaper misrepresentation, and to afford the "fullest and most minute" detail of facts, and to annihilate altogether the foul charge which had been preferred against him of having used instruments of torture; I repeat, in such a case, the first piece of information, any one would have expected to meet with, would be a true and faithful description of the chains themselves accompanied, if not with the original sketch from which the Artificer had made them, at least with a fac simile of it. This way of refuting misrepresentation, however, would not answer, and therefore all allusion to the form of these French "Slave Collars" is carefully abstained from. This then, Sir, is another gross "suppressio veri," which has been practised by His Excellency upon your predecessors in office with the view evidently of misleading their Judgment, and drawing from them an opinion in ignorance of the real facts of the case. But, Sir, there is another train of fraud and falsehood equally palpable on the face of His Excellency's despatches and Mr. McLeay's letter, connected with the punishment which Sudds and Thompson underwent, and intended obviously, like the train of fraud and falsehood to which I have just adverted, to mislead the Secretary of State for the Colonies as to the character and extent of the punishment itself; The only difference between the two is that the one, to which I am now about to draw your attention, involves that species of fraud which is designated "expressio falsi."

Alleged misrepresentation by R. Darling and A. Macleay.

It will be seen that His Excellency, in his despatch to Lord Bathurst of the 4th of December, 1826, after briefly alluding to the death of Sudds, And with a view evidently to lead to the inference that the chains in no wise contributed to this catastrophe, does not hesitate thus to express himself, "However much the event is to be regretted, it cannot be imputed to severity. Instances occur daily of men petitioning to be allowed to work on the roads in chains, as these men were ordered, instead of being sent to a penal settlement, the former punishment being preferred in all cases by the prisoner. The only deviation from the usual course of proceeding, in the Case of Sudds and Thompson, was that, instead of the chains being put on in the Gaol, the act was performed in a more ceremonious manner in the presence of the Garrison, as a necessary example to the Troops." The assertions, contained in this part of the despatch, are 1st. That no severity was practised or intended; 2nd. That instances are of daily occurrence of Culprits petitioning to be allowed to work on the roads in chains as these men were ordered (that is in similar chains) instead of being sent to a penal settlement; and that working on the roads in such chains is in all cases preferred

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by culprits to transportation to a penal settlement; 3rd. That the only deviation from the usual course of proceeding in the case of Sudds and Thompson was that their chains were put on in the presence of the Garrison, instead of being placed on them in the Gaol. Mr. MeLeay, in his letter to the Editor of the Australian of the 1st December, 1826, it will be seen, expresses himself somewhat more guardedly, but to the like effect. He says, "instead of being transported, it was directed that he (Sudds) should work on the roads in chains, it being conceived that the example would be useful in preventing other soldiers from making a similar attempt to obtain their discharge from the service. To show that this punishment is considered a mitigation of the sentence when substituted for transportation, it is only necessary to state that applications from the prisoners for such commutation are very numerous, and are constantly received after sentence of transportation has been passed on them." All the material assertions contained in the despatch, it will be seen, are iterated in other words in Mr. MeLeay's letter, so that an analysis of the veracity of the Governor will be an analysis of the veracity of the Secretary, the one treading *passibus æquis* in the steps of the other. I will examine these assertions *seriatim*. 1st. The Governor states "that no severity was practised or intended." Why then the invention of new fangled chains? Why the General Order? Why the parade? Why the working on the roads in these chains afterwards? Why the deviation from the original sentence, if the substituted sentence were really a mitigation or commutation? How was the example, which is the avowed object of the ceremony, to have been produced? Did the Lieutenant General imagine that the troops were the only persons in the Colony who could not distinguish between a real mitigation and a real increase? But either transportation to a penal settlement was a greater punishment than the ceremony and the seven years working on the roads in such chains, which was to follow, or it was a less punishment; If it was the greater punishment, the best "practicable means of checking the dangerous disposition which had manifested itself in the Troops," and deterring the rest of the Garrison from similar practices, was to have allowed the original sentence of the Quarter Sessions to be carried into effect; If transportation was a less punishment, then the Governor's assertion that no severity was practised or intended cannot be true. 2nd. With respect to the Governor's assertion that "instances are of daily occurrence of Culprits petitioning to be allowed to work on the roads in chains as these men were ordered," I have already sufficiently shewn the gross and scandalous violation of truth it involves. The chains

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Nature of alteration of sentence.

Inaccuracy of statement *re* preference for labour in road gangs.

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Inaccuracy of statement *re* preference for labour in road gangs.

themselves I have proved to have been *sui generis*; such as had never before been known or dreamt of in the Colony; such therefore as no culprit could have contemplated in any petition addressed to the Authorities; and such certainly as no one, who has heard Thompson's report of the intolerable torture which they inflicted on him, would be desirous of substituting for transportation to any place of exile under heaven. The truth then is that, instead of "working on the roads in chains, as these men were ordered, being preferred in all cases by the prisoner" as the Governor asserts, it had not been preferred and could not have been preferred in any case. It may indeed be true that petitions have been received by Government from culprits, under sentence of transportation to a penal settlement, to be allowed to work on the roads in the ordinary chains used in the chain gangs for a period shorter than their original sentence, and I suspect the petitions, alluded to in the Governor's despatch and the Colonial Secretary's letter, will be found for the most part to be so qualified. But I know that even a real commutation like this is not preferred by Culprits in all cases, and that many, if not most of them, would sooner linger out seven years without chains at a penal settlement, than be employed during half that time in chains on the roads. 3rd. The Governor's last assertion that "the only deviation from the usual course of proceeding in the case of Sudds and Thompson was that, instead of the chains being put on in the Gaol, the Act was performed in a more ceremonious manner in the presence of the Garrison," It is needless to say is disproved by the nature of the chains themselves, they being a deviation from the usual course of proceeding, alike in their invention, their shape, their weight, and their operation. These Assertions, therefore, of the Governor and Mr. McLeay are not only utterly untrue, but are destitute of all colour of truth. The motives which have led to the many gross falsehoods and suppressions of truth, to which, Sir, I have had the disgusting task of directing your attention, and with which these two Gentlemen are for the most part identified, I need not point out to you. Practices like these carry with them their own interpretation; they are the natural consequences of the Act which I have brought home to one of them as principal, and to the other of them as accessary, And bespeak, in language too forcible to be misunderstood, The Judgment which the Actors in this tragedy have pronounced on their own dark deeds. The Governor's despatch contains many other minor mistatements, to which it would be but too tedious to draw your attention. Having already proved that the grounds of Justification relied on by His Excellency are of no validity in fact or in law, I shall close

Alteration in method of fulfilling sentence.

Alleged motives for misrepresentation.

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this letter with an examination of the last and principal question connected with the character of the homicide thus committed. Was there any of that malice in the Act, express or implied, which is of the essence of murder? "The nature of malice (says my Lord Chief Baron Macdonald in his charge to the Jury in Governor Wall's case) as it is now understood, and has been for ages in this country, and wisely so, is not merely personal malevolence or Spleen against an Individual, or what would in vulgar terms be called Spite; but we understand by the word malice the act of putting to death, or causing to be put to death (which is the same), the act of killing being attended with such circumstances as in ordinary experience shew (of which experience a Jury is the proper Judge) a wicked, depraved and malignant spirit. It therefore means a killing from a wicked and corrupt motive, and indeed one might say, that all the cases, which we can find of the malice which is inferred from circumstances, turn on the single point that the fact has been attended with such circumstances as carry in them the plain indication of a heart regardless of the life of man, and bent upon mischief." This definition of malice by my Lord Chief Baron Macdonald is more amplified, but does not differ in substance from the definition of it contained in the admirable work of Mr. Justice Foster; "Malice aforethought," says this Author, "is when the fact is attended with such circumstances as are the ordinary symptoms of a wicked, depraved, malignant spirit or an Action flowing from a wicked and corrupt motive; a thing done *malo animo malâ conscientiâ*," Foster, C.L. 256. Chitty, in his notes on Blackstone's Commentaries, Vol. 4, page 150, has a still pithier definition of malice. He calls it "doing an Act without a Just cause"; and, according to Lord Hale, "homicide is presumed to be malicious, and of course to amount to murder, until the contrary appeareth upon evidence." It is clear then that the death of Sudds is an Act upon which the law inscribes a presumption of malice, and I feel, Sir, that, in bringing home this Act to the Governor and proving, as I have proved, that it was neither necessary nor Justifiable, I have made out a *primâ facie* case of murder against His Excellency, from which nothing short of the verdict of a Jury of his Peers can or ought to relieve him; but, although the law makes no distinction betwixt express malice or implied, either in the character or the consequences of Murder, or any crime of which malice forms an ingredient, and although I confidently anticipate you would not shrink under any circumstances from the performance of that duty towards your Country, which the indefensible homicide of Sudds has cast upon you in your high office of Secretary of State for the Colonies,

Inquiry *re* evidence of malice.

Definitions of malice.

Alleged case of murder proved against R. Darling.

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It may perhaps render the performance of this duty less painful, If I satisfy you, Sir, that the death of this unfortunate victim was "attended with such circumstances as in ordinary experience shew a wicked, depraved and malignant Spirit," or in other words afford evidence of that "inward intention," which constitutes "express malice" in law. The nature of the delicate and important duty which your situation casts on you, Sir, I think is well described in the opening of my Lord Chief Baron Macdonald's address to the Jury in the beforementioned case of Governor Wall. It is a two-fold duty, as respects the public and as respects the Lieutenant General. In the words of that Grave Judge, it will "require your closest and best attention; for, in the first place, the charge is the heaviest which our law knows; his life is at Stake, and that of itself would, I am sure, be sufficient to excite every degree of care and attention in you; but in other respects it seems to me to be of peculiar importance. For on the one hand, as the Attorney General has most liberally and most sensibly said, when a well intentioned officer is at a great distance from his native Country, having charge of a member of that Country, and it shall so happen that Circumstances arise which may alarm and disturb the strongest mind, it were not proper that strictness and rigour in forms and in matters of that sort should be required, where you find a real true and genuine intention of acting for the best for the sake of the Public. You see they are in a Situation distant from assistance and from advice. In these circumstances, if a man should be so much thrown off the balance of his understanding as not to conduct himself with the same care and attention that any one in the County of Middlesex would be required to do, And does not exceed greatly the Just and proper line of his duty, allowance for such circumstances ought unquestionably to be given to him.

Duty of secretary of state.

Address of judge at trial of J. Wall.

"But on the other hand it is of consequence that, where a commander is so circumstanced, that is at a distance from his native Country, at a distance from inspection, at a distance from immediate Control, and not many British Subjects there, if he shall by reason of that distance wanton with his authority and command, it will certainly be the duty of the law to control that and keep it within proper bounds. The protection therefore of subjects, who are serving their Country at that distance on one hand, is one of the objects you are to have in view today; the protection of a well intentioned Officer, if such he be, who does not by his Conduct disclose a Malevolent mind, but may disclose human infirmity to a certain extent; who, being in trepidation and alarm of mind, overlooks some things he ought otherwise to have regarded; such a man's case is on the other hand deserving of great attention."

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Parallels in cases of J. Wall and R. Darling.

Now, Sir, it appears to me, that what my Lord Chief Baron Macdonald laid down as fit considerations for the Jury in that Case to rest their Judgment upon in determining the guilt or innocence of Governor Wall, will form very apt and proper matters for your consideration in determining whether General Darling shall or shall not, through your intervention, be subject to the like ordeal for the death of Joseph Sudds, to which Governor Wall was subjected for the death of Benjamin Armstrong. The death of the latter person you will be aware, Sir, took place at the Island of Goree, of which Colonel Wall was then Governor, and was occasioned by a very unusual assemblage of certain of the Troops of the Garrison, of whom Benjamin Armstrong was the leader. At the trial of Governor Wall, there was conflicting evidence as to the object and Spirit of the Troops with whom Armstrong took part; The witnesses for the Crown stating that their Conduct was orderly and proper, and the witnesses for the prisoner stating that their conduct, and particularly that of Armstrong, was highly mutinous and insubordinate. This, however, is certain that they went in a body thrice to the Governor's house to demand certain arrears of pay, which they claimed to be due to them, And that, soon after their last visit, Colonel Wall hastily called together the Officers of the Garrison, and with or without a drum head Court Martial (for on this point too the evidence was conflicting) caused Benjamin Armstrong to undergo the punishment* of which he died a few days afterwards. At this time, it was admitted in the Attorney General's speech for the prosecution, that there were only six Military Officers in the Garrison, And it does not appear that there was any Judge or other law Officer, or indeed any civil Officer whatever on the establishment of the Island. Governor Wall therefore was literally "in a situation distant from Assistance and from Advice"; And the Act, for which his life was forfeited, might have been the result of that trepidation and alarm which the conduct of Armstrong and the other Troops, who took part with him, excited. But, in the case of Sudds and Thompson, it cannot be pretended that there was anything to excite apprehension of danger in any mind, for His Excellency was surrounded by a numerous Staff, By a numerous Garrison of Officers and Soldiers, By a numerous establishment of Civilians of all description, And above all by a numerous and loyal Colony. In this State of things therefore, nothing could occur "to throw him off the Balance of his understanding, or to prevent him from conducting himself with the same care and attention that any one in the County of Middlesex would be required to do." His situation in fact was perfectly analogous in all

Particulars *re* punishment of B. Armstrong.

Position of R. Darling at date of punishment of J. Sudds and P. Thompson.

* Note 234.

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Position of R. Darling at date of punishment of J. Sudds and P. Thompson.

respects to your Situation as one of the King's Ministers in Downing Street. He had his Executive Council; he had his Attorney General; he had the Judges of the land to consult with, if he thought fit. There was abundance of advice within his reach; Why did he not ask for it? Why did he presume to Judge of the meaning of an Act or Ordinance of the Legislative Council? Why is the Country saddled with Salaries of Judges, of Attorney and Solicitor Generals, if Governors are to be the interpreters of the law and to combine at once in their own persons the executive and Judicial functions? His omitting then to seek advice from those officers, to whom he was bound to apply, I take to be one proof of express malice in this case. Another proof is furnished by the 5th Section of the Act or Ordinance upon which he rests his Justification. As he took upon himself to Judge of the meaning of the 6th Section, it is not credible that he did peruse the 5th or preceding section; And the wording of this latter Section, You will perceive, Sir, is so plain that it is impossible that any one, however illiterate, can run and read and not discover that the "ceremony," which he directed in his General Order, was in the teeth of the provisions which it contains. A third proof of express malice is afforded by the nature of the Chains themselves, and the utter disregard which he manifested as to the size and dimensions of the two unfortunate wretches, to whom this new fangled invention was to be applied. What these sufferers endured in consequence has already been detailed, and I put it confidently to you, Sir, whether this fact does not of itself afford conclusive proof of such a "wantoning with his Authority and Command" as, in the words of Lord Chief Baron Macdonald, "it is the duty of the law to restrain and keep within proper bounds"? And whether it is not, in the words of the same learned and grave personage, one of those "circumstances which carry in them the plain indication of a heart regardless of the life of man, and bent upon mischief." A fourth proof of express malice is furnished by the Conduct which he has since pursued towards the prisoner Thompson, in causing, on the very day of the death of Sudds, Sudds' irons to be placed on him, in working him in those irons afterwards on the roads. And in finally transporting him of his own Authority, and, after what he terms his famous "commutation," remitting him to the original and as he knows illegal sentence imposed on him by the Quarter Sessions. All these Acts I take to be indications of the original intention which actuated him, Viz., a determination to trample upon all law and Justice, And to render his Authority paramount at all hazards. The death of Sudds would have softened any heart not of Stone; And yet you will perceive, Sir,

Evidence alleged of "express malice."

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that, on the very day of this awful admonition, And as if to set the warning voice of the Eternal at defiance, the instruments of death are again resorted to and again used with an almost similar result. If this be not a wantoning "with Authority and Command," if it be not proof as strong as holy writ of the existence of a most "wicked, depraved and malignant Spirit," it will be in vain to seek for proofs of "express malice" among the recorded Acts of the greatest monsters of Antiquity.

Evidence alleged of "express malice."

I have now, Sir, presented to your view a pieture of fraud, falsehood and Cruelty, which I believe is not surcharged in any part with any undue colouring; and which I hope for the honor of the British Character has been rarely equalled in the Atrocities which it unfolds. The author and his abettors are now made known to you; and I shall take care that they shall at least be held up to public Scorn and execration. I call upon you to deal with them as they deserve. The many excesses, which have been committed in our Colonies of late Years, it appears to me, require some great publie example, as well to convince Governors that there are bounds within which even they must move, as to satisfy the Colonists themselves that they are not to be surrendered, as a matter of course, to a brutal and irresponsible despotism. If I have unfolded in this letter only one Aet, or rather one series of Acts of Cruelty, oppression and injustice, It is not that I eannot unfold many more. It was my intention, but for the length to which this letter has extended itself, to give you the particulars of the Case* of Alexander Lookaye, alias Edwards, who was but a short time since driven by the barbarous and illegal conduct pursued towards him by the Governor to terminate a wretched existence, which he had attempted before, and which His Excelleney knew at the time that he would attempt again. The case of this man, which I will detail to you in my next letter, involves in my opinion another charge of murder against General Darling; And of this at least I am satisfied, that if it be not murder, it is something so like it, that it will require the nicest casuistry to define the difference. Misdemeanours, by which I mean high indictable misdemeanours, punishable by fine and imprisonment or both, are the ordinary Sports of this Government, as it is now constituted. And I will be content to forfeit all claim to honor and veracity through life, If I do not, before any competent tribunal, establish twenty aets of this character, to which the Governor and his Secretary have been parties. Let me but have the means to arrange and produee the evidence of such Acts, which this Colony affords; put General Darling to the Bar of British Justice, and I will make out to the satisfaction of the universe such a series of fraud, tyranny and corruption, as I

Demand for execution of public justice.

Intended reference to case of A. Lockaye.

Numerous misdemeanours alleged against R. Darling and A. Macleay.

General indictment of R. Darling.

* Note 235.

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trust have never occurred before in the history of our Colonial Government, and as I know it will be difficult to find any high delegate of His Majesty capable of committing again.

Reverting finally, however, to the acts of outrage which I have just brought under your attention, and which form in my opinion a system of misdemeanours, of which murder itself glares as the centre, you will perceive, on referring to the files of the "Sydney Gazette" in your office, which paper, by a high Judicial functionary here Mr. Justice Dowling, was not long ago well designated "the paid Organ of the Government," That the Colonial Secretary, acting doubtless under His Excellency's directions, caused "The return to an address of the Honorable House of Commons," in Appendix B, to be published in that paper of the 10th of January last. The motive of this publication was obviously a hope on the part of His Excellency that the people here, whose spirit has been broken by three successive bad Harvests, by an unprecedented and ruinous weight of taxation, and by an organized system of tyranny, the combined effects of which have been to cast a gloom over every independent mind among us, would suffer this "triumphant refutation," as "the paid organ" termed it, to pass over *sub silentio*; and that the Governor would thus be able to write a despatch to you, Sir, and say "See the people here are satisfied at least with the integrity of my intentions, if the Act itself should not have been altogether regular." This insidious expectation, however, has been happily frustrated by the "Australian" and "Monitor" newspapers, both of which contain,* as you will perceive on perusing the accompanying numbers of them, the most cutting and bitter Analysis of His Excellency's defence. The opinions, which have been expressed by the Editors of these papers, are responded by every honest heart among us, and afford conclusive proof of the general opinion which still pervades the people of these Colonies, as to the character of the act, which terminated the life of Sudds. It is in vain that His Excellency, after provoking the reexpression of these opinions, has since caused the Attorney General to encumber the files of the Supreme Court with a load of ex-officio informations to punish the authors of them. The Judgment, which was pronounced by the independent press at the date of the perpetration of this Act, will never be revoked. The Act was pronounced to be murder then; And you will see, Sir, that, after a lapse of more than three years, it is pronounced to be murder still in language as plain at least as people under this meridian dare breathe. And should the Governor, in running a muck against the expression of this universal feeling, obtain a conviction for libel, what Court of Justice could in decency inflict

Publication of papers in *Gazette*.

Criticism of documents in *Australian* and *Monitor*.

* Note 176.

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more than nominal punishment on the convicted for the publication of a Just commentary on facts, the truth of which a whole community will be ready to depose to? What do these publications and these prosecutions then indicate? But that the moral force and effieacy of the King's Government here ceased with the Commission of this Act of Atrocity by the King's Representative, And that the public respect and confidence can never be restored until that Government be committed to other hands. Ever since the hour of Sudds' premature death, the Colonists have felt that he, who should have been the first to evince his veneration for the laws, has been among the number of the greatest violators of them; and that he alone of all the King's Subjects here has been suffered to trample on them with impunity; whilst others, much less offending, have been compelled to yield up their lives a Just forfeit to the outraged majesty of those very laws, of which he has continued, notwithstanding his own high Offences, to be the indecorous Exceutor. It will be evident, Sir, that it is altogether immaterial, as respects the honor of His Majesty and the dignity of His Crown, whether this opinion of the character of the Acts committed by his Delegate be well or ill founded. It is an opinion at least, which is almost universal, and which has taken such deep root among us that nothing short of a Verdict of a British Court of Justice, founded upon the fullest inquiry, can ever shake it. And I therefore finally submit for your fullest consideration, as one of His Majesty's confidential Advisers, whether it is fitting, whether it is decent, whether it will not in fine be an outrage on the feelings and opinions of all His Majesty's loyal Subjects in this Colony to suffer any one, who stands thus guilty and degraded in their estimation, whether justly or not, to fill any longer the dignified offiee of His Most Gracious Majesty's representative among them; and whether the inevitable tendeney of such a state of things will not be to bring the offiee itself into public hatred and contempt.

Alleged loss of public confidence by R. Darling.

Proposal for removal of R. Darling.

I have, &c.,

W. C. Wentworth.

[Appendix A.]

[*This was the report* of the trial in the issues of the "Sydney Gazette" and the "Australian" newspapers, dated 11th November, 1826.*]

Press reports.

[Appendix B.]

[*This was the "Return* to an Address of the Honorable House of Commons, dated the 8th of July, 1828."*]

Parliamentary papers.

[Appendix C.]

[*This was a copy of the act† of council, 7 Geo. IV, No. 5.*]

Act of council.

* Note 237. † Note 229.

[Appendix D.]

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Examination of P. Thompson.

THE Examination of Patrick Thompson, a Convict on board the Pheonix Hulk, taken this 23rd day of April, 1827, in the presence of Alexander McLeay, Esqr., Colonial Secretary, William Henry Moore, Esq., acting Attorney-General, and William Charles Wentworth, Esq., Barrister at law.

Conviction.

I was convicted of the offence, for which I am here, on the 8th day of November last, and sentenced on the same day. My sentence was seven years' transportation. I was sentenced at the Quarter Sessions, Mr. Carter being the Judge. After I received my Sentence, I was taken to the gaol; I remained in the gaol till the 22nd of November. The gaoler then came for me and Joseph Sudds, who had been convicted the same day with me for the same crime, and had received a similar sentence; and I and Sudds were conducted by Wilson the under gaoler and two constables to the Military Barracks; the clothing, which I and Sudds had on, were taken off, and a suit of regimentals put on each of us. We were then taken to the Parade Ground, and the regimentals taken off us, and a suit of yellow cloth put on each of us, and a general order read to us by Brigade Major Gillman, by the order of his Excellency General Darling. After the order was read to us, a set of irons were put on each of us. The irons consisted of a collar, which went round each of our necks, and chains were fastened to the Collar on each side of the shoulder, and reached from thence to the basil, which was placed about three inches from each ancle. There was a piece of iron, which projected from the collar before and behind about eight inches at each place. The projecting irons would not allow me to stretch at full length on my back. I could sleep on my back by contracting my legs; I could not lie at full length on either side without contracting my legs; I could not stand upright with the irons on; the basil of the irons would not slip up my legs, and the chains were too short to allow me to stand upright. I was never measured for the irons, and Sudds's collar was too small for his neck and the basils for his legs, which were swollen. I never heard him say he had the dropsy in the West Indies. Sudds was turned out of the hospital the morning of the punishment, and taken to the barracks about an hour afterwards. Sudds was taken from the hospital to the sessions on the 6th November; he appeared to be very ill, insomuch that the man who was handcuffed with him was obliged to sit down on the grass in the court-yard to enable Sudds to lie down; he continued in that way till after his trial. Soon after his trial, he went again to the hospital; this was about eight o'clock at night; he was taken very ill with a complaint, I believe, in his bowels, and Mr. Wilson the under gaoler, at the instance of the prisoners about thirty in number, who were in the same ward and consisted mostly of debtors and confines, took him into the hospital. Sudds had had no irons on him at the time, nor had I; but the next morning, to the best of my belief, irons were put upon him by Toole, the turnkey, by order of the doctor, as I was informed both by Toole and Sudds. Sudds I believe remained in the hospital till the 22nd, having irons on all the time. After his trial and before his last illness, he had been in the hospital a few days, and had been discharged by the doctor. For the last six days previously to the 22nd, I for the most part got Sudds's ration of bread, he could not eat it himself; Sudds during this time had the same sort of ration as myself; it consisted of four ounces of meat, pea

Military "ceremony."

Illness of J. Sudds.

soup and a pound of bread; it was the common prison allowance. After the yellow cloth and the irons were put upon us in manner before mentioned, we were drummed out of the regiment, the Rogues' March being played after us by two or three drummers and fifers. We were not drummed out in the usual way, which is to put a rope about the neck, cut off the facings and place a piece of paper on the back, with a description of the offence which the party may have committed; instead of this we had the chains on and the yellow clothing. We were drummed to the barrack gate, and from thence conducted to the gaol by constables and soldiers with their usual arms. On our return to the same ward in the gaol, Sudds sat down with his back to the wall, saying that he was very ill, and wished to go to the hospital again; but he did not go to the hospital till next morning; I do not know that he reported his illness to the under gaoler that evening. The basils of his irons cut his legs during the time we were coming from the barracks to the gaol; it was owing to the sharpness of the basil and the weight of it that we were cut. Sudds's irons, I think, were a little larger in the chains than mine, though he was about three inches shorter than me. The night of the day of punishment, Sudds was so ill that we were obliged to get a candle about eight o'clock from Wilson the under gaoler, in order to keep up a light; during the night, I gave him some tea I had purchased. About ten o'clock he was getting very ill; I requested a fellow prisoner to get up and look at him, thinking he was dying. The fellow prisoner, whose name I do not know, did look at him, and said he was not dying, but he did not think he would live long. I then asked Sudds if he had any friends to whom he would wish to write; he said he had a wife and child in Gloucestershire, and begged that, if he did not get better by the next night, I would read some pious books to him, adding that they "had put him in them irons, until they had killed him"; shortly after this I fell asleep, another man having undertaken to sit up with him; I think the name of this man was Moreton, his father is a potter on the Brickfield Hill; he was in gaol for an assault on his mother. At eight o'clock the next morning, being Thursday the 23rd, Sudds was taken to the hospital, and he took some tea and a little bit of fish, which is all I think he ate till he died; this I think, because I had his gaol rations afterwards. His irons were taken off about twelve o'clock on Thursday, when the doctor came his rounds; I enquired of the attendant in the hospital (whose name is Thompson) how Sudds was on Thursday evening, and he said he was a little better. On Friday morning I went to see him; he was in such a state that he did not answer my questions or appear to know me; he looked at me; I squeezed his hand, but he made no return and appeared to be insensible. I saw him again on Saturday; I heard that he had been delirious, and had got out of bed on Friday night; but after twelve o'clock on Saturday night he never spoke; and, about three o'clock on Sunday, the 26th November, he was removed to the general hospital, being carried on the shoulders of two men down the steps of the gaol to the entrance, and from thence carried in a small cart, as I was informed, to the hospital; I was told that he expired about six or seven o'clock on Monday morning; I believe that Sudds could lie at full length with his irons on, either on his back or his sides; Sudds did not complain of the irons being too short for him, but he complained that the collar was too tight for his neck, and the basil too tight for his

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Examination of P. Thompson.

Conclusion of military "ceremony."

Illness of J. Sudds.

Admission of J. Sudds to gaol hospital.

Removal of irons from J. Sudds.

Removal of J. Sudds to general hospital.

Death of J. Sudds.

Effect of irons on J. Sudds.

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Examination of P. Thompson.

Effect of irons on J. Sudds.

legs. I do not know that his neck was swollen beyond its ordinary size; he was naturally a thick necked man; but I do know that his ancles were swollen after his return to the gaol. I think the swelling of his ancles arose from the marching. I heard of his having had a swelling in his legs about six or seven days before the chains were put on him. The collar put on Sudds was so small that it would not admit any thing to be between it and the neck but a cotton handkerchief; the collar was so small that Sudds would not allow it to be turned round, so as to allow him to lie on his back, saying that it would hurt him if it was stirred. I think, on Saturday the 25 November, I broke the chain of my irons, in order to enable me to turn the collar and lie at ease; my chain remained broken till Monday morning, when Wilson took me to the lumber yard to get my irons removed and Sudds's put on; Sudds's irons were then put on me, the whole of them, collar and all, and I was taken back to the gaol, where I remained till Tuesday, when I was escorted by a party of military in a boat to Parramatta, and placed in the prisoners' barrack there for the night. On Wednesday morning I was conveyed in a bullock cart to Penrith gaol, my irons being on all this time; I was put in charge of a constable whilst in the bullock cart, but soldiers were with us, I believe by accident. I slept in Penrith gaol that night, and the next morning I was taken to No. 1 iron chain gang road party on Lapstone Hill, being the first hill of the range of blue mountains; at three o'clock the same day, I was taken out to work with the gang, and remained at work there I believe about eight days, having my irons on all the time. At the end of eight days I became unable to work; it was very hot weather, and the heat of the collar used to become intolerable, and compelled me to sit down frequently in order to hold it with my hands off my neck; on these occasions, the overseer of the gang would come up to me and order me to return to my work; I told him that I could not and would not, that he might take me to gaol, where I could get a rest from work and the heat of the sun; he ordered me to gaol accordingly; this was on the following Thursday; I remained in gaol till Friday morning, when Mr. M'Henry ordered the irons to be taken off me by the orders of the Governor; the overseer of my iron gang told me that the order to remove my irons had been there the night before. After the irons were removed, I was sent back with the overseer Plumley, carrying the irons with me. On our arrival at the camp in Emu Plains, another pair of irons were put on me, being the usual irons of the gang; I remained at work with these new irons on another week, when I told the overseer that I did not think I had been dealt with according to the Law, but that I could not work and would not work for the Governor, and that he might take me to court; I said at the same time that I was sick; I was then taken again to Penrith gaol, where I remained a week, but was not locked up there in the day time; previously to this, I had complained twice of illness to the overseer, who did not call me to work, but left me in for Dr. Allan the surgeon, who attended Emu Plains, sometimes twice a week and sometimes once, in order that Dr. Allan might examine me. The doctor gave me some medicine, but ordered me on both occasions to be returned to my work, saying that my ailment did not signify. I was taken before the magistrates at Penrith Court on the next court-day; it was on a Friday; I was tried for refusing to work, but the magistrates, at the instance of Mr. M'Henry, remanded me till

Irons of J. Sudds put on P. Thompson.

Removal of P. Thompson to iron gang at Lapstone hill.

Inability to work in irons.

Removal of irons.

Refusal to work in iron gang.

the Governor's pleasure should be known. After my trial, and whilst I was in gaol, I became very ill, and Sir John Jamieson* visited me and asked me what was the matter; I told him I had the dysentery, and he ordered a cart to be got ready to take me to Windsor Hospital, which was the hospital of the district; I arrived there at 12 o'clock at night of the 26th of December; I had a severe attack of dysentery, which confined me to the hospital nearly a month, I believe about twenty-six days; I was so very ill that no one of the patients expected I should recover; at the end of this time, I was discharged from the hospital and sent to Windsor gaol, where I remained three or four days, and then was brought to Sydney gaol by Mr. Jilks, the chief constable of Windsor, and, after remaining in Sydney gaol one night, I was the next day brought on board the hulk, where I have continued up to the present period.

1829. 28 May. Examination of P. Thompson.

Illness in gaol at Penrith and hospital at Windsor.

Transfer to hulk.

[Appendix E.]

[1] Mr. W. C. Wentworth to Captain Robison.

Sir, Sydney, 1st January, 1829.

Understanding that you commanded the veterans on the parade on the day Joseph Sudds and Patrick Thompson, privates of the 57th regiment, were drummed out of that regiment in chains, by virtue of the general order of Lieutenant General Darling as Governor and commander of the forces, and that you also subsequently saw, at the government station on Emu Plains, the chains which Patrick Thompson had been worked in whilst in the iron chain gang on Lapstone Hill, I have to request that you will describe the nature of the chains and also their weight, as nearly as you can, together with the grounds upon which your opinion as to their weight rests.

Request for description of chains.

My reason for making this application to you is the notice which the case of Sudds and Thompson attracted in Parliament† during the last session, and the intention which I have resumed in consequence of forwarding to the Secretary of State for the Colonies a detail of all the facts and circumstances connected with the punishment of these men, a detail which I am anxious should be as correct and minute as possible. I remain, &c.,

Reasons for request.

W. C. Wentworth.

[2] Captain Robison to Mr. W. C. Wentworth.

Sir, Sydney, New South Wales, 3rd January, 1829.

I have to acknowledge the receipt of your letter of the 1st instant, stating that you understand I was present on the parade in command of the Royal Veterans on the day that privates Joseph Sudds and Patrick Thompson were drummed out of the 57th regiment in chains, by order of Lieutenant General Darling, Governor of the Forces in this Colony, and that I afterwards saw the chains in which private Thompson was worked on Lapstone Hill, and requesting me to describe the nature of the chains, and also their weight, as nearly as I can, together with the grounds upon which I rest my opinion as to their weight, etc.

Letter acknowledged.

In reply, I have to state that I commanded the Royal Veteran Companies when the punishment of privates Joseph Sudds and Patrick Thompson, of the 57th regiment, took place, and in my

* Note 238. † Note 174.

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opinion a greater act of torture, could not have been well committed with reference to the bad state of Sudds's health at the time. This unfortunate soldier (Sudds) was so unwell as to be unable to stand up, and was led into the barrack square from the gaol, supported by a man under each arm. His whole body was much puffed up and swollen, particularly his legs and feet.

Health of J. Sudds on day of military "ceremony."

The day happened to be one of extreme heat, it being the middle of summer in this country (November, 1826), and the length of time the iron collar, etc., took fitting and rivetting round the neck of Sudds, as also the changing of his dress, even to his shirt, for the yellow convict clothing, oppressed him so much, that he was obliged to be seated on the ground, as he had not strength to stand. The other soldier Thompson, from being in better health and much more strong and active, had his collar and irons sooner fitted on him.

Visit to Emu plains.

With respect to the nature and weight of the chains, I beg to observe that, in a few months after Sudds's punishment and death (May or June, 1827), I was returning from the command of the Bathurst district, in company with Lieutenant Christie of the Buffs, and we stopped a night at the government station at Emu Plains.

Examination and test of chains.

The chains, which private Thompson worked in as above mentioned, had been left at Emu, and were brought for us to see. As they were of a very unusual description, and the iron collar reminding me of those I had seen on condemned slaves, etc., in South America, I was curious to examine them, and for this motive was induced to put them on my own person, as did also Lieutenant Christie of the Buffs; we had but one opinion as to the torture they must have produced, indeed I dare not trust to paper the remarks that Mr. Christie made on the occasion; but that officer was soon after allowed to return to Europe in command of the invalids, and can be easily referred to in England; he has lately been promoted.

I found it quite impossible, whilst I had the collar and irons on me, to lie down, except on my back or face, there being two long spikes extending from the iron collar, which was rivetted round the neck, which put it out of my power to turn over on either side, independently of which there are two chains on either side extending from the collar and communicating with those on the legs.

Estimated weight of chains.

What the whole weight of the irons was, I cannot take upon myself exactly to say; but, in reply to a question whilst I had them on me from Lieutenant Christie and others, as to what I considered their weight, I guessed about thirty or forty pounds or even upwards, and which is still my opinion.

Alleged cause of persecution.

I have very great reason to fear that this casual circumstance of my having tried on these irons at Emu, and of my subsequently having given my opinion of them on arrival at Sydney, reached General Darling's ears, and caused me, amongst other matters, that series of unheard of persecutions, trial by court martial, etc., etc., I have since that period suffered, and am still enduring by General Darling's orders.

Probable interference of R. Darling with punishment.

I finally beg to remark that, if General Darling himself had been on the parade on the day that these two soldiers (Sudds and Thompson) were punished in the way described, I do not think it possible he could have suffered it to have taken place, as he would have been an eye witness to the infirm state of Sudds's health, and how truly incapable he appeared to bear it; but the whole of the troops in garrison were commanded on the parade by Colonel

Stewart of the 3rd Buffs, the next senior officer, also Lieutenant Governor, who, I suppose for the honor of humanity, had no discretionary power left him in carrying General Darlington's orders into execution. 1829. 28 May.

There was no regimental medical officer of the 57th regiment present. Absence of military surgeon at "ceremony."

I have, &c.,
R. Robison,
Captain of the N. S. Wales Royal Veteran Corps.

[Appendix F.]

[1] Memo. by J. Mackaness.

A few days prior to the punishment of Joseph Sudds and Patrick Thompson, I called at Government House in company with the late Colonel Mills, and saw on the right hand of the hall, after entering the door, either one or two sets of irons, having collars and spikes projecting from them, which I have no doubt were the same I afterwards saw on Sudds and Thompson in gaol, after their exposure on the parade on the 22nd of November, 1826; I had not at the time the least notion of the use to which these irons were subsequently to be applied; I took them to be some newly invented man traps, and expressed myself to that effect to Colonel Mills. Chains at government house.

In consequence of a letter, dated 20th of November, 1826, my deputy, Mr. James, gave an order to the gaoler to deliver Sudds and Thompson to the brigade major on his application. This was done on the 22nd. On that day, the brigade major called on me, requesting I would give him an order for Sudds and Thompson to be received back into the gaol. I inquired why they were delivered to him; he told me to be drummed out of the regiment, etc., etc., etc. I told him I considered such punishment illegal, as the men had been sentenced by a court of justice for the offence they had been found guilty of. He said the Governor had the power, and had ordered it. I replied, I was sure neither His Majesty nor His ministers could sanction it in England, and I could not receive them back into the gaol, unless directed by his Excellency or other legal authority. In consequence of which, I received the letter of the 22nd of November. Delivery of prisoners to brigade-major. Illegality of punishment. Order for return to gaol.

On the 23rd, I saw the prisoners in gaol. Sudds was sitting on the stones; he looked very ill, complained much, and said he should die if his irons were not taken off. I told him I would send for the surgeon, who might order them off, if necessary; but, as I understood the Governor had ordered them on, I could not relieve him. Inspection of J. Sudds in gaol.

J. Mackaness,
Late Sheriff of New South Wales.

[2] Colonial Secretary Macleay to Mr. J. Mackaness.

Sir, Colonial Secretary's Office, 20th November, 1826.

I am directed by his Excellency the Governor to request that the two soldiers named in the margin (Joseph Sudds, Patrick Thompson) now confined in His Majesty's gaol may be delivered over to Brigade Major Gillman on his making application to that effect. Order for delivery of prisoners to brigade-major.

I have, &c.,
Alexander M'Leay.

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[3] Colonial Secretary Macleay to Mr. J. Mackaness.

Sir, Colonial Secretary's Office, 22nd November, 1826.

Order to receive prisoners in gaol.

With reference to my letter of the 20th, I am directed by his Excellency the Governor to request that you will receive again and cause to be lodged in His Majesty's gaol as before the two soldiers named in the margin (Joseph Sudds, Patrick Thompson) when brought back by the brigade major.

I have, &c.,
Alexander M'Leay.

[4] Colonial Secretary Macleay to Mr. J. Mackaness.

Sir, Colonial Secretary's Office, 24th November, 1826.

Order for transfer to Parramatta.

I am directed by his Excellency the Governor to request that the prisoners, named in the margin (Joseph Sudds, Patrick Thompson), may be forwarded in irons to Parramatta by water immediately, accompanied by a proper escort, and delivered over in that town to the Assistant Inspector of Roads.

The Master Attendant will provide a conveyance, and the Major of Brigade will order a military guard to attend them to the boat.

I have, &c.,
Alexander M'Leay.

[5] The Master Attendant to Mr. J. Mackaness.

Boat for conveyance of prisoners.

The Master Attendant has to inform the Sheriff, that a boat will be ready this morning at ten o'clock in the Dock-yard for the conveyance of the two prisoners named in the margin (Joseph Sudds, Patrick Thompson) now in Sydney Gaol, to be forwarded to Parramatta.

Master Attendant's Office, 25th November, 1826.

[Appendix G.]

Mr. W. C. Wentworth to Chief Justice Forbes.

Sir, Sydney, New South Wales, 14th March, 1829.

Extracts from impeachment transmitted to F. Forbes.

I have the honour to enclose for your information the following extracts from a letter, which I am about to transmit through His Excellency Lieutenant General Darling to the Right Honourable the Secretary of State for the Colonies, relative to the case of Sudds and Thompson, in order that you may have an opportunity of meeting those observations, which I have felt it my duty to make in reference to your conduct as Chief Justice and a member of the Executive Council on the occasion alluded to in these extracts.

I have, &c.,
W. C. Wentworth.

Extracts referred to in the above letter.

First extract:—"From this statement, Sir, it will be obvious" to "in Appendix G hereunto annexed"; *see pages 827 and 828.*

Second extract:—"Having thus shewn you," to "lent himself to this most illegal proceeding"; *see page 829.*

[Appendix H.]

Proclamation remitting sentences.

[This was a copy of the proclamation, dated 8th June, 1826; see page 514, volume XII.]

[Enclosure No. 2.]

1829.
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Extracts from minutes of executive council *re* impeachment.

Extracts from the Minutes of the Executive Council, from No. 8 of the 4th to No. 20 of the 21st May, 1829, inclusive, relative to the Charges contained in a Letter addressed to the Right Honourable Sir *George Murray* by Mr. *C. Wentworth*, and dated Sydney, 1st March, 1829.

Minute No. 8.

Council Chamber, Monday, 4th May, 1829.

Present in pursuance of adjournment:—His Excellency the Governor; The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

The Minute of proceedings at the last meeting was read and confirmed.

Submission of impeachment.

His Excellency The Governor laid before the Council a letter, of which the following is a copy, addressed to his Excellency by Mr. W. C. Wentworth, dated the 14th April, 1829, but which his Excellency stated was not received until the 18th of the same month.

Sir, Sydney, 14th April, 1829.

I have the honour to enclose you the original of a letter of impeachment against yourself, addressed to the Right Honourable His Majesty's Secretary of State for the Colonies, and to request, in conformity with the rule established by Earl Bathurst, that you will transmit it with such explanations and defence as you may deem advisable.

I have, &c.,

W. C. Wentworth.

His Excellency the Governor also laid before the Council the Letter* of Impeachment against his Excellency (being the inclosure of the foregoing letter) addressed by Mr. W. C. Wentworth to the Right Honourable Sir George Murray, K.G.B., His Majesty's Secretary of State for the Colonies, and dated Sydney, the 1st March, 1829, but, as before stated, not received by His Excellency until the 18th of April.

Request by R. Darling for investigation.

His Excellency the Governor requested the Council to examine into the truth or falsehood of the charges contained in the letter of impeachment, and particularly urged this on the Council in consequence of their conduct being arraigned in it. His Excellency having then stated that for reason that the matter under consideration was one which more particularly related personally to himself, he declined taking any part in the inquiry, and accordingly retired.

Withdrawal of R. Darling from council.

Chair taken by Revd. T. H. Scott.

The chair having been then taken by the Venerable the Archdeacon, the Clerk was directed to read the Letter of Impeachment. Before the reading of the Letter was completed, the Council having understood that Dr. Bowman, inspector of hospitals, was about to proceed to one of the distant settlements on duty, and it being considered that his evidence was essential in regard to some of the allegations contained in the Letter of Impeachment, Dr. Bowman† was called in and examined accordingly.

Examination of J. Bowman.

The meeting then adjourned to the following day at eleven.

* See Appendix A, 1st March, 1829. † See Appendix B.

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Minute No. 9.

Council Chamber, Tuesday, 5th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

Conclusion of reading of impeachment.

The Council, having assembled in pursuance of adjournment, resumed the consideration of the letter of impeachment laid before them at the last meeting. The reading of this letter, and the documents which accompanied it, was now completed.

The Council then adjourned to the following day at ten o'clock.

Minute No. 10.

Council Chamber, Wednesday, 6th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

Examination of chains used on J. Sudds and P. Thompson.

The Council having met pursuant to adjournment, and the chains which had been put on privates Joseph Sudds and Patrick Thompson, of the 57th regiment, on the 22nd November, 1826, being produced, the Council caused them to be weighed and measured in their presence, and their exact weights and measurement respectively were found to be as follows, viz.:—

First set, being those exhibited in the Colonial Secretary's Office, and originally put on the prisoner Thompson. Weight, thirteen pounds twelve and a half ounces (13 lbs. 12½ oz.).

Dimensions, collar, a circle of 5⅜ inches diameter in the clear, two projections 6¼ inches long, square at the extremities, made of iron ⅛ inch thick and ¼ inch broad.

Length of the two chains from the collar to the basils, 4 ft. 6 in.; links formed of rod iron ⅛ inch in diameter.

Basils 3⅞ inches diameter in the clear, made of iron 2¼ inches broad, ⅛ inch thick.

Two links connecting the basils, including the rings, 2 ft. 9 inches long ⅛ inch thick.

Second set, being those sent from Emu Plains, originally put on the prisoner Sudds, and afterwards worn by Thompson:—

Weight, fourteen pounds six ounces (14 lbs. 6 oz.).

Dimensions, collar, a circle of 6 inches diameter in the clear, two projections 7 inches long, square at the extremities, made of iron ⅛ inch thick, 1¼ inch broad.

Length of the two chains from the collar to the basils, 4 ft. 8 inches, links ⅛ inch thick.

Basils, 4 inches diameter in the clear, made of iron 2¼ inch broad, ⅛ inch thick.

Two links connecting the basils, including the rings, 2 ft. 9 inches long, ½ inch thick.

Witnesses examined.

The Council then proceeded to examine the following persons relative to the charges contained in Mr. Wentworth's Letter of Impeachment, and their evidence will be found in the Appendix,* viz.:—

William Dumaresq, esq., late civil engineer;
Lieutenant Henry Hill, adjutant of the 57th regiment;
Mr. Joshua Thorp, superintendent of public works;
James Lovel, serjeant-major of the 57th regiment;
Mr. Mathew John Gibbons, storekeeper to the engineer;
Benjamin Constable, overseer of blacksmiths;
Thomas Icely, esq., justice of the peace.

The Council then adjourned to the following day at ten o'clock.

* See Appendix C, D, E, F, G, H and I.

Minute No. 11. 1829. 28 May.

Council Chamber, Thursday, 7th May, 1829.

Present:—The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Colonel Pat. Lindesay.

The Council, having met pursuant to adjournment, proceeded to examine the following persons relative to the charges contained in Mr. Wentworth's Letter of Impeachment, and their Evidence will be found in the Appendix.* vizt.:— Witnesses examined.

Mr. James Kinghorne, Superintendent of the Agricultural Establishment at Emu Plains.

George Plumley, Overseer of No. 1 Iron Gang, holding a Ticket of leave.

James Mitchell, Esq., Surgeon of the General Hospital, Sydney.

The Council then adjourned to the following day at Eleven o'clock.

E. Deas Thomson,
Clerk of the Council.

Minute No. 12.

Council Chamber, Friday, 8th May, 1829.

Present in pursuance of adjournment:—The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Colonel Pat. Lindesay.

The Council proceeded to examine the following persons in relation to the charges contained in Mr. Wentworth's Letter of Impeachment, and their Evidence will be found in the Appendix,† vizt.:— Witnesses examined.

William Henry Moore, Esquire, Solicitor, who, upon his examination being finished, retired, and shortly after transmitted a Letter to the Council which is appended to his Evidence.

Mr. Steel, Governor of the Gaol of Sydney.

Captain Robert Robison of the New South Wales Royal Veteran Company, who, previously to signing his Evidence, requested that the following Protest might be entered on the Minutes of the Council, and his request was acceded to: Protest of R. Robison against examination by council.

"Captain Robison, previous to his signing the Statement which has been now taken from him before the Executive Council, begs most respectfully to submit his dissent as to the propriety and competency of the present Tribunal to enter upon the matter upon which his statement has been taken.

"Council Chamber, Sydney, this Eighth day of May, 1829.

"R. Robison.

"Captain, N. S. Wales Rl. V. C."

The Council then adjourned to the following day at Eleven o'clock.

E. Deas Thomson,
Clerk of the Council.

Minute No. 13.

Council Chamber, Saturday, 9th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

The Council having assembled, pursuant to adjournment, proceeded to examine the following persons relative to the charges

* See Appendix J, K and L. † See Appendix N, O and P and M.

1829. 28 May. contained in Mr. Wentworth's Letter of Impeachment, and their evidence will be found in the Appendix,* viz.:—

Witnesses examined. Lieutenant Colonel Thomas Shadforth, 57th regiment.

William Dumaresq, late civil engineer, being his second examination.

The Council then adjourned to Monday, the 11th instant, at twelve o'clock.

Minute No. 14.

Council Chamber, Monday, 11th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

Non-attendance of witness. The Council having met pursuant to adjournment, and Mr. Kinghorne, jun., who was summoned to appear, not being in attendance, adjourned to the following day at eleven o'clock.

Minute No. 15.

Council Chamber, Tuesday, 12th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

Comparison of minutes of council. The Council, having met pursuant to adjournment, took into consideration that part† of Mr. Wentworth's Letter of Impeachment, which, though it does not directly charge, insinuates that the proceedings of Council, transmitted by his Excellency the Governor to the Right Honourable the Secretary of State relative to the case of Sudds, may have been garbled.

The proceedings of the Council, dated the 8th and 9th December, 1826, were compared with the copy printed by order of the House of Commons on the 14th July, 1828, when only a few clerical and typographical errors were discovered, but not in any way affecting the sense of the minutes.

Errors in dates but not in facts.

The first minute in the printed copy is dated 5th December, and in the original minutes the 8th December; the second minute in the printed copy is dated 9th November, instead of 9th December.

There appears also to be an error in the date of Mr. M'Leay's statement, which on the 9th of December must have been given in without any date, and without being sworn to, and afterwards sworn to by desire of the Council.

The error in the date of Mr. M'Leay's statement is however immaterial, as the minutes of the 8th and 9th December, 1826, were, according to the invariable practice of the Council, read and confirmed at the next meeting on the 30th of the same month, as appears by Minute No. 23 of that date, when the same Members of Council were present, namely:—

His Excellency the Governor; His Honour the Lieutenant Governor; His Honour the Chief Justice; The Honourable the Colonial Secretary.

The minute book of the Council having been further carefully examined, it was ascertained that it contained no other proceedings on this subject.

The Council then adjourned to Thursday, the 14th May instant, at ten o'clock.

* See Appendix Q and R. † Note 239.

Minute No. 16. 1829. 28 May.

Council Chamber, Thursday, 14th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

The Council, having met pursuant to adjournment, resumed the consideration of the charges contained in Mr. Wentworth's Letter of Impeachment, and proceeded to examine the following persons in relation thereto, whose evidence will be found in the Appendix.* viz.:— Witnesses examined.

Mr. Charles Nye, clerk in the Colonial Secretary's Office;

Mr. Alexander Kinghorne, jun., millwright.

The Council then adjourned to Saturday, the 16th instant, at twelve o'clock.

Minute No. 17.

Council Chamber, Saturday, 16th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

The Council having met pursuant to adjournment, and further taken into consideration the charges contained in Mr. Wentworth's Letter of Impeachment, adjourned over to Monday, the 18th May instant, at eleven o'clock. Further consideration.

Minute No. 18.

Council Chamber, Monday, 18th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

The Council, having met pursuant to adjournment, proceeded to examine Edmund Lockyer, esq., surveyor of roads and bridges, in relation to the charges contained in Mr. Wentworth's Letter of Impeachment, and his evidence will be found in the Appendix.† Examination of E. Lockyer.

Mr. William Henry Moore, having been called in and requested to swear before the police magistrate to his examination taken before the Executive Council on the eighth day of May instant, declined doing so, stating that he should not have any objection to swear to the whole of this examination before a competent tribunal, but that, as he considers the magistrates could take no cognizance of the matter, he declined doing so. Refusal of W. H. Moore to swear to his examination.

The Council, under the circumstances of the case, have thought proper to include Mr. Moore's evidence amongst their proceedings, without being sworn to, as it is already signed by him.

The Council have not deemed it expedient to call upon Captain Robison to swear to his examination, taken before them on the 8th May instant, in consequence of his having then "submitted his dissent as to the propriety and competency of the present tribunal to enter upon the matter upon which his statement had been taken." R. Robison exempted from swearing to his examination.

The Council then adjourned to the following day at twelve o'clock.

Minute No. 19.

Council Chamber, Tuesday, 19th May, 1829.

Present:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

The Council, having assembled pursuant to adjournment, resumed the consideration of the Charges contained in Mr. Wentworth's Letter of Impeachment, and then adjourned over to Thursday, the 21st instant, at eleven o'clock. Further consideration.

* See Appendix S and T. † See Appendix U.

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Minute No. 20.

Council Chamber, Thursday, 21st May, 1829.

Present, in pursuance of adjournment:—The Venerable the Archdeacon; The Honourable the Colonial Secretary; The Honourable Colonel Pat. Lindesay.

Consideration of evidence.

The examination of the witnesses being closed, the Council proceeded to consider the evidence taken before them, and subsequently sworn to before a magistrate by all the respective parties, excepting Mr. W. H. Moore and Captain Robison, whose examinations were not sworn to, for the reasons stated in the minute of the 18th instant.

Language used by W. C. Wentworth.

The Council do not think it is within their province to make any remark on the coarse and indecorous language, which forms a great part of the letter addressed to the Right honourable the Secretary of State by Mr. W. C. Wentworth.

Principal charges for investigation.

The following are the principal points or charges advanced in the letter, which have appeared to the Council to require investigation or to merit attention; and to each of these is added the substance of the evidence which the Council have been able to collect on the subject:

Charge of misstatement *re* conduct of military.

1st. Mr. Wentworth states,* that privates Sudds and Thompson, of the 57th regiment, were men of previously unblemished character, and that the Governor's representation respecting the former instances of similar misconduct on the part of some of the 57th regiment was not correct.

Evidence *re* conduct of J. Sudds and P. Thompson.

On the subject of this statement, the Council examined Lieut. Col. Shadforth,† of the 57th regiment, who states that he considers Sudds's conduct as a soldier bad; that he was a drunkard; that he knew him to have been dishonest, independently of the act of which he was convicted; that he was a deep designing man; and that Thompson, though not a bad man, yet being silly was easily imposed on, and consequently troublesome. James Lovel,‡ the serjeant-major of the same regiment, states he was obliged to dismiss Sudds from his private service for misconduct, he having previously on several occasions heard him say that, if sent to his duty in the regiment, "he would never soldier." The serjeant-major also states, that the character of Thompson in the regiment was very indifferent. Edmund Lockyer,§ esquire, late major of the 57th regiment states that he knew both Sudds and Thompson to have been men of indifferent character; he also states two instances of men of that regiment having maimed themselves for the purpose of getting rid of the service; and that, in consequence of these cases and of the bad feeling which appeared among some of the old soldiers of the regiment, he had felt it his duty to report the circumstances to Sir Thomas Brisbane, the late governor.

Self-inflicted injuries to avoid military service.

Charge *re* nature of irons.

2nd. Mr. Wentworth alleges* that the irons put on Sudds and Thompson did not fit them, and that they consequently could not lie down or turn with the irons on them.

It appears by the evidence of Mr. Mathew John Gibbons,‖ storekeeper to the engineer in the Lumber-yard, and of Benjamin Constable, overseer of the blacksmiths, that no particular orders respecting the size or weight of the irons were given; but Mr. Gibbons

* Note 240. † See Appendix Q. ‡ See Appendix F.
§ See Appendix U. ‖ See Appendix G.

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Evidence *re* construction of irons;

stated that he heard the chief engineer say that the weight of the chains was not so much the object as their peculiar form, for the purpose of degrading the soldiers in the eyes of their comrades; and Benjamin Constable,* who saw them made, states that they were directed to be made easy, so as not to distress those for whom they were intended. William Dumaresq,† esq., the late chief or civil engineer, states that, in pursuance of directions emanating from the Governor, he ordered the two sets of chains to be made, and that he does not recollect that any particular directions were given respecting them, further than to add the neck-collar and to connect it with the usual leg-irons with small chains. It appears, from this gentleman's evidence, that, when the chains were made, one of the sets, having then on the neck-collar two spikes in addition to the present projections, was sent to Government House for inspection, and that the spikes were then removed from both sets by order of the Governor. This statement is corroborated by Mr. Joshua Thorp,‡ the superintendent of public works, who states that collars of a lighter description were substituted for those first made, and by Benjamin Constable, who states that that part of the iron was taken away so as to have made them lighter. Such is the evidence respecting the manufacture of the chains in question, which have been carefully weighed and measured in the presence of the Council, as detailed in No. 10 Minute of the 6th Instant.

and *re* effect of irons on prisoners.

How far it is true that Sudds and Thompson could not lie down or turn in them will appear from what follows:—Serjeant Major Lovel§ states that, to the best of his recollection, the height of Sudds was about 5 ft. 7 in. or 5 ft. 7½ in., and that the height of Thompson was about 5 ft. 9 in. to 5 ft. 9½ in., and that Thompson was not so stout in proportion to his height as Sudds. Their height has been more accurately ascertained by reference to the book containing the descriptions of the soldiers of the 57th regiment, which was produced to the Council by Lieutenant Hill,‖ the adjutant. The height of Sudds was recorded in this book at 5 ft. 7½ in., and that of Thompson 5 ft. 8 in., although in this man's statement, appended to Mr. Wentworth's letter, it is alleged that he was 3 inches taller than Sudds. In that statement, however, Thompson mentions that he did not hear Sudds complain of the chains being too short, and that he thinks he could lie either on his back, or on his sides. Mr. Steel,¶ the governor of the gaol, states that he believes that the irons, which were originally put on Sudds, were afterwards put on Thompson by order of the under-gaoler; and Mr. James Kinghorne,** superintendent of the agricultural establishment at Emu Plains, states that these irons, after having been taken off Thompson, were tried on by Captain Robert Robison; that he saw him lie down in them at full length; and that he is almost sure that he saw him turn while lying on the floor with the irons on him. This is fully confirmed by the evidence of Mr. Alexander Kinghorne, junior. Captain Robison†† in his examination states his height to be about 5 ft. 11 in., being 3½ inches taller than Sudds, and 3 inches taller than Thompson; and, as he is more than ordinarily stout in person, it is evident that the irons he tried on would not have been too short or too small for either Sudds or Thompson. Mr. Icely,‡‡ a magistrate, who saw the prisoners immediately after the irons were put

* See Appendix H. † See Appendix C.
‡ See Appendix E. § See Appendix F. ‖ See Appendix D. ¶ See Appendix O.
** See Appendix J. †† See Appendix P. ‡‡ See Appendix I.

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Evidence *re* effect of irons on prisoners.

on, states that he took particular notice of the irons, and that the impression on his mind at the time was that the collar and connecting chain were intended more for effect than actual punishment, and that this opinion was confirmed by the conduct of the men, who danced to the tune of the rogues' march as they moved along, and held their caps in the air, as if to show their indifference to the degradation to which they had been subjected. He further states that he did not observe that either of them was much oppressed by the chains; and from the levity manifested on the occasion (by both according to the impression on his mind), he should certainly think not. To this may be added the evidence of George Plumley,* overseer of the iron gang, in which Thompson worked, who states that he did not suffer any more than inconvenience from the irons, and that he did not appear to suffer pain from them.

Statement and evidence *re* illness of P. Thompson.

3rd. It is stated† in Mr. Wentworth's letter that, during the continuance of Thompson in the iron road gang, he contracted a fatal malady.

This does not appear to be authorised even by the statement of Thompson himself; but George Plumley,‡ the overseer of the road-gang, states that Thompson was in perfect health when he was sent to Penrith Gaol for refusing to work, and that the irons were taken off him before he left the gaol. It appears, indeed, by his own statement above referred to, that it was while he was in gaol that he was taken very ill.

Charge of substitution of irons.

4th. It is alleged† that the irons, which were exhibited in the Office of the Colonial Secretary, were neither those which had been put on Sudds, nor those which had been put on Thompson, but were forged for the purpose.

Evidence *re* identity of irons.

On this subject, it is sufficient to refer to the evidence§ of Mr. Dumaresq, Mr. Thorp, Mr. Gibbons, and Benjamin Constable, who all concur in stating that only two sets of the description of irons, which were put on Sudds and Thompson, were made. Mr. Steel‖ states that he believes that the irons, which were taken off Sudds in Gaol, had been afterwards put on Thompson by order of the under gaoler, and consequently the chains, exhibited in the Colonial Secretary's Office, were those which had been originally put on the last-mentioned prisoner; but Mr. Dumaresq¶ states that both sets were ordered to be made exactly alike, and although it is now ascertained that one set is a few ounces heavier than the other, yet the irons, which were exhibited, were correctly stated to be a counterpart of the others.

Comparison of irons.

5th. In page —† of Mr. Wentworth's letter, it is stated that the irons, which were shewn in the Colonial Secretary's office, if weighing only thirteen pounds twelve ounces, exceeded in weight those worn in the road gangs by at least nine pounds twelve ounces, and those put on murderers and other atrocious criminals ordered for execution by at least one pound twelve ounces.

Evidence *re* irons used in colony.

Mr. Dumaresq¶ states that, when the iron gangs were first formed, he was inspector of roads and bridges, and that, finding that the irons, which are brought from England, were from their construction

* See Appendix K. † Note 241. ‡ See Appendix K.
§ See Appendix C, E, G and H. ‖ See Appendix O. ¶ See Appendix C.

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easily got off, he ordered deep basils to be made of flat iron, and the irons to be of three sizes, varying from about six to nine pounds: but some of the lighter basils are still used when others cannot be obtained. Mr. Thorp* states, the flat basils have been made for the last two or three years for convicts worked on the roads, and that the basils alone weigh six or seven pounds. Mr. Gibbons† states that the basils for the convicts on the roads are made of a flat form, because they can slip the round basils over their heels. Benjamin Constable‡ states that basils of a flat form have been made for upwards of three years; and both Mr. Gibbon and Constable concur in stating that the irons now usually made for the road gangs, weigh from about six to nine pounds. George Plumley§ states that the only irons used in his gang are such as come out in prison ships from England, weighing from three and a half to four pounds; but Major Lockyer,‖ the present surveyor of roads and bridges, explains this is because, Plumley's gang being distant from a forge, he has been unable to get the basils altered. This gentleman also states that it is intended to alter the whole of them on account of the facility with which the convicts slip the round basils over their heels. Benjamin Constable‡ states that he recollects that about seven years ago there were some very heavy irons made for the gaol, and as he still occasionally sees the same irons brought to the lumber-yard to be repaired, he has no doubt of their weighing from sixteen to eighteen pounds. He also states that he recollects that on one occasion two sets of irons were sent from the gaol to be repaired, which he is confident weighed twenty-one or twenty-two pounds each. Mr. Gibbon† states that, about the year 1793 or 1794, there were collar irons made by order of Lieutenant-Governor Grose for women convicts. They were made of round bolt iron, formed into a collar for the neck, with two projections extending from a foot to eighteen inches from the collar, and weighing about fourteen or fifteen pounds each. On this subject, the Council think it proper to remark that, from the peculiar construction of the irons put on Sudds and Thompson, the greater part of the weight must rest upon the shoulder, or hang equally from two opposite sides of the neck, and that the heaviest set of the two weighs only fourteen pounds six ounces, which is only six ounces more than the weight of a common musket.

Evidence *re* irons used in colony.

6th. It is also stated¶ that the irons, which were actually worn by Sudds and afterwards by Thompson, were considered by Captain Robison, who tried them on, to weigh thirty or forty pounds or even more.

Estimated weight of irons by R. Robison.

The identity of the irons originally put on Sudds and Thompson, and those now produced to the Council, has been proved in a most satisfactory manner. The precise weight of one of the two sets produced was found to be thirteen pounds twelve ounces and a half, and of the other fourteen pounds six ounces. Mr. Dunaresq** states that the only irons of this description, that have been made, were made expressly to be put on Sudds and Thompson, and that he had no doubt that the two sets now produced were the same; and that he had ascertained the weight of the irons, which were exhibited in the Colonial Secretary's Office, to be thirteen pounds twelve

Evidence *re* weight and identity of irons.

* See Appendix E. † See Appendix G. ‡ See Appendix H. § See Appendix K. ‖ See Appendix U. ¶ Note 242. ** See Appendix C.

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Evidence *re* weight and identity of irons.

ounces. Mr. Gibbons* states that, when the two sets of irons were weighed by him, they were to the best of his recollection found to be thirteen pounds and some odd ounces each. Benjamin Constable† states that, when made, they were calculated to weigh about fifteen pounds, but that some part of the iron was afterwards taken away, which made them weigh lighter. Mr. Icely‡ has no hesitation in saying that the two sets of irons, produced before the Council, are exactly similar to those worn by Sudds and Thompson in November, 1826, as the lightness of the collar and of the chains connecting it with the basils particularly struck him. When the two sets of irons were shown to George Plumley,§ he identified that which had been worn by Thompson, and afterwards delivered by him to Mr. James Kinghorne, at Emu Plains. He states that he knew them from a chisel mark, which he made on them when taking the rivets off, but that he had never ascertained their weight. Mr. James Kinghorne‖ recognized the same set of irons from several marks, and states that they were given to him as those worn by Thompson; that there were no other chains of the same description at Emu Plains or used in the gang there; that they are the identical chains, which were tried on by Captain Robison; that he did not ascertain their weight, but that he judged it to be from twelve to fourteen pounds. He further states that he had shown them to several persons, and that, when Lieutenant Christie, who was present when Captain Robison tried them on, observed that they must weigh sixty pounds, his brother, Mr. A. Kinghorne, jun., who was standing by, said "no such thing," and, taking them up in his hand and stretching out his arm, added, "Do you think I could hold out sixty pounds in this way?" Mr. Alexander Kinghorne,¶ jun., also identified the irons which were at Emu Plains, and which Captain Robison tried on. He knew them from a nail in one of the basils, and he entirely corroborated his brother's statement of his having held up the irons in his hand with a stretched out arm, in the presence of Captain Robison and Mr. Christie, when they examined the irons about the month of May, 1827; he thinks they weighed somewhere between fourteen and fifteen pounds. These irons were found,** when weighed before the Council, to weigh precisely fourteen pounds six ounces; but, notwithstanding their having been so satisfactorily identified as those which had been worn by Thompson, and tried on by Captain Robison at Emu Plains, Captain Robison†† states that the chains, which he tried on, and which were shewn to him as being the set that had been on private Patrick Thompson, were thought or guessed by him to be about thirty or forty pounds; that their weight might have been less, but that his impression, at the time he tried them on, was that it was more. He adds, however, that it was candle-light when he tried them on, and, as he now saw those presented to him by the Council in daylight, he considered it possible that he might be wrong in guessing their exact weight; he considered the weight of each of the sets now exhibited, at a hazard, eighteen or twenty pounds; he describes the irons that were shown to him at Emu Plains, as consisting of an iron collar with two projecting spikes, and communicating from the collar by chains to the legs, and also two heavy chains extending from one leg to the other. He states that, to the best of his

* See Appendix G. † See Appendix H. ‡ See Appendix I.
§ See Appendix K. ‖ See Appendix J.
¶ See Appendix T. ** See Minute No. 10. †† See Appendix P.

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recollection, there was only one set of irons shown to him, but that he could not positively swear to the identical chains, although he thought he could positively say, if he saw them, whether they were the set he tried on in company with Mr. Christie. When requested to look at the two sets before the Council, and, after examining them for some time and trying them on, he stated that he could not take upon himself to say exactly which of them was the set that he had on at Emu Plains; they both appeared to him to be similar to those he had on as regards the neck, and the chains communicating below, but he felt confident, as far as his recollection served, that there was an infinitely greater weight of chains upon the legs than is appended to those he now saw. He states that he has not the slightest recollection of any person, who was present when he tried on the irons, having held the whole in his hand with a stretched out arm, and that he thinks it morally impossible that any person could have done so. The Council think it proper to remark, however, that, when this question was put to Captain Robison, although answered in the negative, it immediately brought to his recollection the name of the person, who is proved to have actually held out the chains in his hand, as above described; and he *then* requested to have "one of Mr. Kinghorne's brothers" added to the names of the persons, whom he had previously stated to have been present when the irons were shown to him. Mr. Alexander Kinghorne,* junior, who was examined after Captain Robison, was asked if, at the time he saw the irons on Captain Robison, he observed any more iron about the legs than he saw before the Council, and he answered that he had not, and that, if there had been, he should have observed it.

Evidence *re* weight and identity of irons.

7th. It is stated† that Captain Dumaresq, out of the common course, ordered the irons to be taken off Thompson, and afterwards secretly carried them away from Emu Plains in a bag in his gig.

Alleged removal of chains by W. Dumaresq from Emu plains.

It will be seen by the evidence of Captain Dumaresq,‡ of Mr. James Kinghorne, and of George Plumley, that the order of the Governor for taking the chains off Thompson was communicated in the only regular way, in which it could have been done, through Captain Dumaresq, as the head of the department of roads and bridges, to Mr. Kinghorne, and by him to the overseer under whom Thompson was placed. It will also be seen, by the same evidence, that the irons were not removed from Emu Plains in a gig or by Captain Dumaresq, and that in fact Captain Dumaresq had not a gig, but went on horseback to Emu Plains, at the time he ordered the irons to be removed. Captain Dumaresq§ states that he then ordered Plumley to send them to Parramatta, together with such other extra irons as he had in his possession, and that they were received by the storekeeper at Parramatta on the following day. That they were then removed to the government house at that place, and that they have lain there ever since until a few days ago. He adds that he never, at any period, conveyed these chains in his gig. This is corroborated by Mr. Kinghorne's evidence, and Plumley the overseer states that, by order of Captain Dumaresq, he sent Thompson's irons to Parramatta in a cart by one of his assistant overseers, who took about nineteen other pairs of irons at the same time.

Evidence in contradiction of statement.

* See Appendix T. † Note 243. ‡ See Appendix C, J, K and R.
§ See Appendix R. ‖ See Appendix K.

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Allged neglect to obtain full medical evidence.

8th. Mr. Wentworth alleges* that Mr. M'Intyre, the assistant surgeon, if pressed, could have stated the proximate cause of Sudds's death, and that the opinion of Dr. Bowman, the principal surgeon, and of Mr. Mitchell, the surgeon, who examined the body, were not called for, because they were already known to be unfavorable.

Medical evidence *re* illness and death of J. Sudds.

In consequence of the absence of Mr. M'Intyre at a distant penal settlement, the Council has had no opportunity of examining him; but they consider this to be very immaterial, as Mr. M'Intyre has already been twice examined† before the Executive Council on this subject. Messrs. Bowman and Mitchell have now been examined, and how far their opinions can be considered unfavourable, may be seen by reference to their evidence. Mr. Bowman‡ states that, about a fortnight or three weeks before the death of Sudds, he visited the gaol with Mr. M'Intyre, and found that Sudds had been treated for dropsy, but was that day discharged from the sick list, his disease having subsided; that he saw him when he was removed to the general hospital on the 26th of November, 1826, and again on the following morning, when he was in a state of delirium, and unconscious of any thing that was said to him. Mr. Bowman adds that he understood from Mr. M'Intyre that Sudds had refused every sort of sustenance for several days, and, in the state of exhaustion so occasioned, delirium was produced. Sudds died on the 27th of November, and Mr. Bowman was not present when the body was dissected, nor did he see it afterwards; but Messrs. Mitchell and M'Intyre, who were present at the dissection, stated to him that a trifling affection of the liver was the only indication of disease, all the other parts of the body being in a natural state. In answer to a question put as to what he understood to be the proximate cause of Sudds's death, Mr. Bowman‡ stated that, having suffered from a dropsical disease previously, and having for several days previous to his removal to the hospital refused all sustenance, he attributed Sudds's death to inanition. Mr. Mitchell§ states that the first knowledge he had of Sudds's indisposition, was on the evening of the 26th of November, 1826, when he was received into the general hospital, where he attended him. He was admitted in a state of delirium, and, from Mr. M'Intyre's representation of the case, Mr. Mitchell conceived that the delirium was the consequence of weakness from his having refused nourishment for several days. Mr. Mitchell states that he attended at the examination of Sudds's body, and assisted Mr. M'Intyre in opening it, and that the body appeared in general healthy, and no particular organ was so materially affected as might justly be called the proximate cause of death. The liver seemed to indicate he had lived freely, but it was more functional derangement than organic disease. In answer to a question as to his opinion of the actual cause of Sudds's death, Mr. Mitchell§ states that, from the history given to him by Mr. M'Intyre, he is of opinion "that Sudds died of inanition in conjunction with all the depressing passions connected with his unfortunate situation." Mr. Mitchell adds that Mr. M'Intyre had stated to him that Sudds, while in gaol, had a dropsical affection and bowel complaint, and that he was inclined to suspect that the affection of the bowels was the principal cause of his death. Mr. Mitchell further stated that he did not examine the throat, but that he

* Note 244. † Note 245. ‡ See Appendix B. § See Appendix L.

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does not believe that the winepipe or *bronchia* were diseased. In answer to a question respecting his opinion as to the effect of the irons, which had been on Sudds about twenty-eight hours, Mr. Mitchell* states that, having examined the irons, he is of opinion that the wearing of them was not the cause of Sudds's death. This question was omitted to be put to Mr. Bowman, who had sailed for Moreton Bay before Mr. Mitchell was examined; but both Mr. Bowman and Mr. Mitchell† state expressly that they do not consider that the wearing of those irons for the time they were on Sudds would seriously injure the health of a man otherwise free from disease.

Medical evidence *re* illness and death of J. Sudds.

9th. It is further alleged‡ that the government prevented a coroner's inquest from being held on the body of Sudds, or at least that no inquest was held because it was understood that such a proceeding would be disagreeable to the government.

Allegations *re* omission of coroner's inquest.

How far this charge can be supported will best appear from the concurrent evidence of Messrs. Bowman and Mitchell,† who state that no coroner's inquest was called, because it is not usual to hold inquests on persons dying in the hospital, except in cases of casualty, and never in cases similar to that of Sudds. These gentlemen also state that they are not aware of any order or intimation having been issued, directly or indirectly, from the Governor, the Colonial Secretary, or any department of government, not to hold an inquest.

Evidence on point raised.

10th. It is also alleged‡ that the Governor was aware of Sudds's illness, if not before the irons were put on him, at least before his death, and that he was removed in a dying state from the gaol with the privity of the Governor, in order that the body might not be subject to a coroner's inquest.

Privity of R. Darling to illness and removal to hospital of J. Sudds.

Mr. Bowman§ states that, on the day of Sudds's death, he communicated the circumstance to the Colonial Secretary, but that he is not aware of any communication having been made either to the Governor or to the Colonial Secretary of the state of Sudds's health previous to his death, and that he thinks he should have known if any such communication had been made, because all official communications are made through him as head of the department when he is in Sydney. Mr. Mitchell* states also that he is not aware of any communication having been made to the Governor, or to the Colonial Secretary, of the State of Sudds's health, nor did he communicate his death to either, but reported the circumstances to Mr. Bowman. Mr. Steel‖ states that the illness of Sudds, while in gaol, was never reported to the Governor or to the Colonial Secretary, it not being usual in such cases to do so.

Evidence *re* non-transmission of reports on health of J. Sudds.

Lieutenant Colonel Shadforth,¶ who commanded the 57th regiment in November, 1826, states that he was present when the irons were put on Sudds and Thompson; that Sudds appeared to him to be in a sickly state, but that he attributed it to his having been a hard drinker, and being deprived of the stimulus to which he had been used and to the excessive heat of the day. He cannot positively state whether Sudds sat down on the parade, either before or after the irons were put on him, but thinks he did sit down to

* See Appendix L. † See Appendix B and L. ‡ Note 246. § See Appendix B.
‖ See Appendix O. ¶ See Appendix Q.

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have his convict shoes put on, which he seemed to effect with difficulty, his feet being swollen. Lieutenant Colonel Shadforth states that no representation was made to him by the surgeon of the regiment, or by any other medical officer of the state of Sudds's health at that time, nor is he aware that any medical officer of the garrison was present. He adds that he does not know whether any report of the state of Sudds's health was made to the Governor or to any department of government, previous to his being taken from the gaol to the parade, or afterwards, prior to his death. Mr. Charles Nye,* a clerk in the Colonial Secretary's office, states that he registers all public letters and communications that are made to the Colonial Secretary, and that, on searching the register, he does not find that there is any record of any communication made to the Colonial Secretary in November, 1826, respecting the state of Sudds's health, although, if such had been made, he must have known it. With respect to the cause and manner of Sudds's removal from the gaol to the general hospital, Mr. Bowman† states that he was removed upon Mr. M'Intyre's application to the sheriff to have him removed in consequence of his severe illness. Mr. Mitchell‡ states that he concludes that Sudds was removed in the usual manner at the representation of the attending surgeon of the gaol to the sheriff of the necessity of the removal of the patient to the general hospital for the convenience of procuring medical treatment and comforts, which he could not obtain so beneficially in the gaol.

Evidence *re* non-transmission of reports on health of J. Sudds.

Removal of J. Sudds to hospital.

Alleged request for assistance of W. C. Wentworth.

11th. The letter states§ that the Governor sent a message by Mr. Moore, then acting Attorney General, to Mr. Wentworth, requesting of him to exert his influence with the Australian newspaper, and put a stop to the observations it contained in the case of Sudds and Thompson, and soliciting his advice.

Evidence of W. H. Moore *re* interview with W. C. Wentworth.

Mr. Moore‖ has been examined by the Council on this subject, and he states that he did have a communication with Mr. Wentworth by desire of the Governor, and that he stated to the Governor fully the particulars of the conversation that passed, but it is so long ago that he cannot trust his memory. He cannot speak as to expressions, but his impression is that the Governor did ask him to request of Mr. Wentworth to use his influence with the editor of the Australian newspaper to put a stop to observations that were appearing in that paper respecting the death of Sudds; but he certainly does not recollect that the Governor ever requested him in any way to ask Mr. Wentworth's advice on the subject, or that he stated he would follow the advice that Mr. Wentworth would give. This, however, appears to be explained by Mr. Moore's letter¶ of the 8th of May instant, in which he states that, although he has no wish to qualify his statement of having no recollection of the Governor's having ever made any such request of him, yet he wishes to explain that statement by adding that, in his conversation with the Governor previously to his waiting on Mr. Wentworth on the occasion alluded to, he desired him to tell Mr. Wentworth that he was willing or anxious to submit the whole facts of Sudds and Thompson's case to the law authorities here, to judge whether he had acted illegally or with improper severity, considering the circumstances of the case; and that, if Mr. Wentworth would advise

* See Appendix S. † See Appendix B. ‡ See Appendix L.
§ Note 247. ‖ See Appendix M. ¶ See Appendix N.

or point out any method of so bringing it before the cognizance of the Courts here, he, the Governor, would follow the method he would point out for that purpose. Mr. Moore told the Governor that no proceeding of the kind could take place in the colony. He thinks he replied that he might as well tell Mr. Wentworth so, and that he, the Governor, would concur with him in any measure for that purpose. At any rate he did repeat that part of the Governor's conversation to Mr. Wentworth, who was of his opinion that no such line of proceeding could be adopted. Mr. Moore* adds that he believes the Governor had received intimation from Mr. Wentworth of his intention to forward to England an impeachment against him in this matter; and that the Governor requested him to urge Mr. Wentworth to expedite the forwarding it by a vessel, which was then about to sail, and also to forward to the Governor the copy which Mr. Wentworth had pledged himself to give to him.

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Evidence of W. H. Moore *re* interview with W. C. Wentworth.

12th. Mr. Wentworth alleges,† or at least insinuates, that the proceedings of the Executive Council, of which extracts have been printed by Order of the House of Commons, are garbled and false.

Alleged falsification of records.

The Minutes‡ of the Council of the 12th instant will sufficiently refute the charge, inasmuch as the proceedings of the Council in December, 1826, have been compared with the printed copy, and found to be substantially correct.

Accuracy tested by council.

13th and lastly. It is alleged† that it is not true that prisoners, sentenced to transportation, frequently apply to have their sentences commuted to working on the roads in irons.

Statement *re* preference for labour in road gangs.

Mr. Steel,§ the governor of the gaol, who was examined on this subject, states that he has frequently known prisoners make application for commutation of their sentences, which have been acceded to by their being sent to iron gangs; and that he knows but of one instance, namely, that of private Patrick Thompson, of the fifty-seventh regiment, where such commutation has not been considered a mitigation of sentence. He adds that he may have delivered to the Colonial Secretary petitions from prisoners under sentence of transportation expressly praying to have their sentences commuted to work on the roads in irons, but he cannot call to his recollection any particular instances, the applications were so numerous.

Evidence *re* applications by prisoners to labour in iron gangs.

The Council then adjourned, *sine die*.

T. H. Scott.

E. Deas Thomson, Clerk of the Council.

Extracted from the Minutes of the Executive Council of New South Wales by

E. Deas Thomson,
Clerk of the Council.

Appendix to the Minutes of the Executive Council, from No. 8 of the 4th to No. 20 of the 21st May, 1829, inclusive.

Appendix to minutes of council.

Enclosure A.

[*This was a copy of W. C. Wentworth's letter, dated 1st March, 1829; see page 800 et seq.*]

Impeachment of R. Darling.

* See Appendix M. † Note 248. ‡ See Minute No. 15. § See Appendix O.

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Enclosure B to the Proceedings of the Executive Council.

Minute No. 8 of 1829.

Examination of J. Bowman.

EVIDENCE of *Dr. Bowman*, Inspector of Hospitals, as taken before the Executive Council, this 4th day of May, 1829.

Illness of J. Sudds.

On what day did you first know of the indisposition of Joseph Sudds?—About a fortnight or three weeks previously to his death, I visited the gaol with Mr. M'Intyre, the assistant surgeon, who had charge of the gaol, and found that Sudds had been treated for dropsy, but was that day discharged from sick list, his disease having subsided.

How often did you see Sudds in gaol?—I never saw him in gaol but on the above occasion.

Removal to general hospital.

By whose order was he removed to the general hospital, state the cause, and when his removal took place?—He was sent to the general hospital on Sunday evening, I think the 26th of November, 1826, about five o'clock, upon Mr. M'Intyre's application to the sheriff to have him removed in consequence of his severe illness.

Condition of J. Sudds in hospital.

Did you see him in the hospital, and what, in your opinion, was the nature of his complaint?—I saw him when he was received into the general hospital, and again on the following morning. He was in a state of delirium, and unconscious of any thing that was said to him. I understood from Mr. M'Intyre that Sudds had refused every sort of sustenance for several days, and, in the state of exhaustion so occasioned, delirium was produced. In fact he had determined to die.

Death of J. Sudds.

When did Sudds die?—On the forenoon of the 27th of November, 1826.

Did you communicate his death to his Excellency the Governor or to the Colonial Secretary, and, if so, when?—I called upon the Colonial Secretary on the day of Sudds's death, and communicated the circumstance to him.

No reports made on illness.

Are you aware of any communication having been made to his Excellency the Governor or the Colonial Secretary of the state of Sudds's health previous to death?—I am not.

If such a communication had been made by any medical officer of your department, would you not have known it?—I think I should, because all official communications are made through me, as head of the department, when I am in Sydney.

Post-mortem examination on body of J. Sudds.

Were you present when Sudds's body was dissected, or did you see it subsequently?—I was not, nor did I see it afterwards.

What appearance did you understand to exist in the body to indicate the proximate cause of death?—Mr. Mitchell and Mr. M'Intyre were present on the dissection of the body, and both stated to me that a trifling affection of the liver was the only indication of disease. All the other parts of the body were in a natural state.

Cause of death.

What did you understand to be the proximate cause of Sudds's death?—Having suffered from a dropsical disease previously, and for some days before his removal to the hospital having, as I before stated, refused all sustenance, I attribute his death to inanition.

Reasons for not holding an inquest.

Did you think it necessary to call a coroner's inquest?—No.

Why not?—It is not usual on persons dying in the hospital except in cases of casualty.

Is it usual in cases, similar to that of Sudds, to call a coroner's inquest?—Never.

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Examination of J. Bowman.

Did you receive any order, directly or indirectly from the Governor, Colonial Secretary or any department of government not to hold an inquest?—No.

Have you seen the irons which were put on Sudds?—Yes, I have seen them.

Effect of wearing irons.

In your opinion, would the wearing those irons for twenty-eight hours seriously injure the health of a man otherwise free from disease?—I should think not, indeed. J. Bowman.

Sworn before me, Sydney, the 5th day of May, 1829.

F. Rossi, J.P.,
Principal Superintendent of Police.

Enclosure C to the Proceedings of the Executive Council.

Minute No. 10 of 1829.

Examination of W. Dumaresq.

Examination of *William Dumaresq*, Esquire, late Civil Engineer, before the Executive Council, this 6th day of May, 1829.

You were civil Engineer in November, 1826?—Yes, I was.

Manufacture of irons.

Were the two sets of chains, now exhibited to you, made under your orders?—I have no doubt they are actually the same, as I ordered chains of a similar description to be made.

From whom did you receive orders to make those chains?—I do not immediately recollect from whom I received those orders, but I have no doubt they emanated from the Governor.

Was any particular size or weight directed?—I do not recollect that any particular directions were given, further than to add the neck collar, and to connect it with the usual leg irons by small chains. When the chains were made, one of the sets was sent up to government house to be shown when they had on the neck collar two spikes in addition to the present projections, and those spikes were removed from both sets by order of the Governor.

For what purpose were those chains made?—They were made expressly to be put on Sudds and Thompson.

Weight of irons.

What is their weight?—At the time they were made, I did not weigh them; but I subsequently ascertained that the set exhibited in the Colonial Secretary's office weighed thirteen pounds twelve ounces. The two sets of chains were ordered to be made exactly alike; but I, two days ago, ascertained that the set worn by Thompson at Emu Plains exceeded somewhat the other set in weight.

Were any other chains of a similar size and appearance made at any other period by order of government?—No, never.

Weight of irons used in iron gangs.

Do you know the usual weight of chains for convicts employed on the roads under sentence to work in iron gangs; if so, specify them?—When the iron gangs were first established, I was inspector of roads and bridges. In the first place, the irons, which come out from England, were put upon the prisoners. I found from their construction they were so easily got off, that I ordered the deep basils to be made of flat iron. The general directions were to make them of three sizes, varying from about six to nine pounds. Some of the lighter basils from the Ships are, I believe, still used when the others cannot be obtained. W. Dumaresq.

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Enclosure D to the Proceedings of the Executive Council.

Minute No. 10, 1829.

Examination of H. Hill.

EXAMINATION of Lieutenant *Henry Hill*, Adjutant of the 57th Regiment, before the Executive Council, this 6th day of May, 1829.

Does the book you now produce contain the description of the soldiers of the 57th regiment?—Yes, it does.

Height of J. Sudds and P. Thompson.

Have the goodness to point out the size and description of privates Joseph Sudds and Patrick Thompson?—Joseph Sudds was five feet seven inches and a half in height. Patrick Thompson was five feet eight inches in height. The form of these men is not stated in this book, and I do not recollect to have seen either of them myself.

H. HILL,
Lieut. and Adjt., 57th Regt.

Enclosure E to the Proceedings of the Executive Council.

Minute No. 10 of 1829.

Examination of J. Thorp.

EXAMINATION of Mr. *Joshua Thorp*, Superintendent of Public Works, before the Executive Council, this 6th day of May, 1829.

What situation did you hold in November, 1826?—I was the assistant engineer.

Manufacture of irons.

Were the two sets of chains now exhibited made under your orders?—No; they were made under my inspection.

From whom did you receive orders to make the chains?—I received no orders; but I believe orders were communicated to the overseer of blacksmiths direct from the chief engineer.

For what purpose were these chains made?—I understood at the time they were intended for two soldiers convicted of theft.

What is their weight?—I have no recollection. I think the first set made was found too heavy, and a collar of a lighter description substituted for the original one, which was broken up, never having been completed.

Were any other chains of a similar size and description made at any other period by order of government to your knowledge?—Not that I am aware of.

Weight of irons used in iron gangs.

Do you know the usual weights of chains for convicts employed on the roads under sentence to work in iron gangs; if so specify them?—I am unable to specify them; but I believe the basils alone of some of the chains weigh six or seven pounds, and the chains at least as much more.

Is it usual to make the basils for the convicts on the roads of a flat form?—We have, for the last two or three years, made them of a flat form, in order to prevent the convicts from slipping them over their heels.

JOSHUA THORP,
Superintendent of Works.

Enclosure F to the Proceedings of the Executive Council.

Minute No. 10 of 1829.

Examination of J. Lovell.

EXAMINATION of *James Lovell*, Serjeant-Major of the 57th Regiment, before the Executive Council, this 6th day of May, 1829.

Do you recollect privates Joseph Sudds and Patrick Thompson of the 57th regiment?—Yes.

Description of J. Sudds and P. Thompson.

Will you describe, to the best of your recollection, their height, size and form?—Sudds was a man about five feet seven inches or five feet seven inches and a half; he was proportionably made to his

height, rather stout. Thompson was a man about five feet nine inches and a half; in form he was not so stout in proportion to his height as Sudds. 1829. 28 May.

What was the general state of Sudds's health when in the regiment?—He was my servant from the time I arrived in the Colony, December, 1825, till about six weeks previous to his committing the theft. His general health was good. I believe he was, during that time, once in the hospital for three or four days. On several occasions, I have heard Sudds say that, if ever he should be sent from me to his duty in the regiment, that he would never "*soldier.*" I was obliged, however, at last to report him to my commanding officer for misconduct; and he was in consequence dismissed from my service. Health of J. Sudds. Dislike for military service.

What was the general character of Thompson in the regiment?—Very indifferent indeed; he was very troublesome on many occasions. Character of P. Thompson.

JAMES LOVELL,
Sjt. Major, 57th Regt.

Enclosure G to the Proceedings of the Executive Council.

Minute No. 10 of 1829.

EXAMINATION of Mr. *Matthew John Gibbons*, Storekeeper to the Engineer in the Lumber Yard, Sydney, before the Executive Council, this 6th day of May, 1829. Examination of M. J. Gibbons.

What situation did you hold in November, 1826?—I was storekeeper to the engineer in the lumber yard.

Were the two sets of irons now exhibited to you made under your orders?—Yes, they were. The first sets were made with four projections; but two of these projections were ordered to be removed from each set, and new collars were made with two projections, which are those now exhibited. I heard Captain Dumaresq, the chief engineer, say that the weight of the chains was not so much the object as their peculiar form for the purpose of degrading the soldiers, for whom they were intended, in the eyes of their comrades. Manufacture of irons.

From whom did you receive orders to make these chains?—From Captain Dumaresq, who was then civil engineer.

Was any particular weight or size directed?—No, none to me.

What is their weight?—When they were weighed by me, to the best of my recollection they were found to be thirteen pounds some ounces each set. Weight of irons.

Were any other chains of a similar size and appearance made at any other period by order of government?—Not to my knowledge of that kind.

Do you know the usual weights of chains for convicts employed on the roads under sentence to work in iron gangs; if so, specify them?—They run from about six to nine pounds, but the greater proportion of them from six to seven pounds. Weight of irons used in iron gangs.

Is it usual to make the basils for the convicts on the roads of a flat form?—Yes, it is; because they can slip the round basils over their heels.

Do you recollect any collar irons being made during your former residence in the Colony; if so, state where, and for what purpose?—I recollect such having been made by order of Lieutenant Governor Grose about the year 1793 or 1794; they were made for women convicts, who at that time were behaving so ill that it was found the only means of keeping them in order. Collar irons for female convicts.

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Collar irons for female convicts.

What was the construction of these collar?—It was a round bolt of iron formed with a collar for the neck, and rivetted through two projections extending from a foot to eighteen inches from the collar.

What was their weight?—I speak within compass when I say they weighed about fourteen or fifteen pounds each.

M. J. Gibbons.
Storekeeper.

Enclosure II to the Proceedings of the Executive Council.
Minute No. 10 of 1829.

Examination of B. Constable.

Examination of *Benjamin Constable*, Overseer of Blacksmiths in the Lumber Yard, Sydney, a Convict per Ship Dick, 1821, before the Executive Council, this 6th day of May, 1829.

What situation did you hold in the lumber yard in November, 1826?—Assistant overseer in the blacksmith's gang.

Manufacture of irons.

Did you at any time see the two sets of chains now exhibited to you; state when and where?—I saw them made in the blacksmith's shop in the lumber yard, to the best of my recollection, between the 13th and 18th of November, 1826.

From whom did you receive orders to make these chains?—I received no orders, but I was informed that orders were given to the principal overseer of blacksmiths by Captain Dumaresq.

Was any particular size or weight directed?—To the best of my knowledge there was not, but that they were directed to be made easy, so as not to distress those for whom they were intended.

For what purpose were those chains made?—I was not informed at the time for what purpose they were intended.

Weight of irons.

What was their weight?—They were calculated to weigh about fifteen pounds; but some part of the iron was afterwards taken away, which made them weigh lighter.

Were any other chains of a similar size and appearance made at any other period by order of government?—I never saw any made with collars and small chains, but on this occasion.

Weight of irons used in iron gangs.

Do you know the usual weights of chains for convicts employed on the roads under sentence to work in iron-gangs; if so, specify them?—There are three distinct sizes in point of weight, namely, six pounds and a half, seven pounds and a half, and nine pounds.

Is it usual to make the basils for the convicts on the roads of a flat form?—It has been the system for upwards of three years.

Heavy irons used in gaol.

What is the weight of the heaviest chains you have known to be made in the lumber yard, either for the gaols or roads?—I recollect, about seven years ago, there were some very heavy irons made for the gaol. It is so long ago that I cannot distinctly state, but I think they weighed about sixteen or eighteen pounds. I still occasionally see the same irons brought to the lumber to be repaired, and I have no doubt they weighed from sixteen to eighteen pounds. I recollect, on one occasion, two sets of irons being sent from the gaol to be repaired, which I am confident weighed twenty-one or twenty-two pounds each.

Benjamin Constable.

Enclosure I to the Proceedings of the Executive Council.
Minute No. 10 of 1829.

Examination of T. Icely.

Examination of *Thomas Icely*, Esq., Justice of the Peace, before the Executive Council, this 6th day of May, 1829.

Were you present in the barrack-square when irons were put on privates Joseph Sudds and Patrick Thompson, of the 57th regiment,

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in November, 1826?—I was in the barrack-yard, but did not witness the ceremony of putting on the irons. I followed them, however, half-way through the barrack-yard, when they had the irons on, on their way to gaol. Examination of T. Icely.

Would you know the irons if you saw them?—I took particular notice of them from their novelty; and the impression on my mind at the time was that the collar and the connecting chain were intended more for effect than actual punishment; and this opinion was confirmed by the conduct of the men, who danced to the tune of the Rogues' March, which was then playing, as they moved along, and held their caps in the air, as if to show their indifference to the degradation to which they had been subjected. Novelty of irons. Conduct of prisoners at military punishment.

Did both men behave in the way you have described?—The impression on my mind is that they both did. There is one circumstance, that I think it necessary to mention, that, as soon as Sudds and Thompson had entered the street from the barrack-square, they were surrounded by a numerous body of persons, who were waiting, the most of whom were convicts, who cheered and shook hands with them and put money into their caps. Reception of J. Sudds and P. Thompson in street.

Have the goodness to look at these irons, and state whether you think they were those worn by the prisoners on the above occasion?—I have no hesitation in saying they are exactly similar, as the lightness of the collar and of the chains connecting it with the basils particularly struck me. Identification of irons.

Did either of the prisoners appear to be much oppressed by the chains?—I did not observe that either was. From the levity manifested on the occasion, I should certainly think not. Effect of irons on prisoners.

THOMAS ICELY.

Enclosure J to the Proceedings of the Executive Council.

Minute No. 11 of 1829.

EXAMINATION of Mr. *James Kinghorne* Superintendent of the Agricultural Establishment at Emu Plains, before the Executive Council, this 7th day of May, 1829. Examination of J. Kinghorne.

What situation did you hold in December, 1826, at Emu Plains, and have you held it ever since?—Superintendent of the agricultural establishment, and I have held it ever since.

Do you recollect private Thompson, of the 57th regiment, having been sent to a road gang near Emu Plains, in irons of a particular construction?—Yes, I do. Transfer of P. Thompson to road gang.

How long did he wear those irons?—I do not think more than seven days from the time he arrived there. Irons worn by P. Thompson.

By whose orders were they taken off?—I received a letter from Captain Dumaresq, the inspector of roads, containing his Excellency the Governor's orders to remove the irons, in consequence of Thompson's good conduct. Order for removal of irons.

What became of the Irons after they were taken off Thompson?—They were brought to me, and kept in the government house in which I reside.

How long did they remain in your keeping?—I dare say they may have been in my keeping for twelve months, perhaps longer.

Did you show them to anybody; and if so, to whom?—I think I showed them to Mr. Rankin, young Mr. Lawson, Lieutenant Vachell, Captain Robison, and Lieutenant Christie. Exhibition of irons.

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Examination of J. Kinghorne.

Did these, or any other persons request to see them?—Mr. Robert Dalhunty asked to see them before I showed them to these gentlemen, but I refused him. I think all the gentlemen I have mentioned asked permission to see them.

Did they make any remarks on the chains?—I think Mr. Christie made some remarks.

Criticism of weight of irons.

What was the nature of these remarks?—He said that they must weigh sixty pounds; but my brother, who was standing by, said, "no such thing," and, taking them up in his hand, and stretching out his arm, added, "Do you think I could hold out sixty pounds in this way?"

Identification of chains.

Are either of the two sets of irons now produced the same as those which were in your possession?—Yes; these I know from several marks; I could swear to them.

Were these the Chains worn by Thompson?—I believe them to be so, and they were given to me as such.

Were there any other chains of the same description at Emu Plains, or used in the gang there?—None.

Irons tried on by R. Robison.

Were these chains, which you have now identified, tried on by Captain Robison?—Yes.

Did he make any remark?—Not that I recollect.

If he had made any remark when you were in the room, would you have heard it?—Yes, I think I should.

Did Captain Robison attempt to lie down with the irons on?—Yes, I saw him lie down at full length on the floor.

Weight of irons.

Did he turn from his back or face to his side while lying on the floor with the irons on him?—I am almost certain he did.

Did you ascertain the precise weight of these chains?—I did not ascertain their precise weight, but I judged it to be from twelve to fourteen pounds.

Removal of irons from Emu plains.

When, and by whose order were they removed from your keeping, and to what place?—I do not exactly recollect the time. Plumley, the overseer of the No. 1 iron gang, in which Thompson worked, came to me and said that Captain Dumaresq had ordered him to get the irons. I told him if he wanted them immediately, he might go up to the house, and my brother would deliver them to him, which I ascertained afterwards he did.

Are you sure that they were not taken away by Captain Dumaresq in his gig?—Captain Dumaresq had no gig with him; he was on horseback; and, as I have already stated, they were taken away by Plumley, and not by Captain Dumaresq.

Correspondence with A. Macleay.

What communications have been made to you respecting those chains since you showed them to Mr. Christie and Captain Robison?—I have had no communication with any person respecting them, except from the Colonial Secretary.

What was the nature of that communication?—A letter requesting me to state to whom I had shown the irons. It is dated the 24th of January, 1829.

Orders *re* men in iron gangs.

Through what department are orders usually given by the Governor or Colonial Secretary for discharging men from iron gangs, or mitigating their sentences?—Through the department of the inspector or surveyor of roads and bridges.

JAMES KINGHORNE.

Enclosure K to the Proceedings of the Executive Council. 1829. 28 May.

Minute No. 11 of 1829.

EXAMINATION of *George Plumley*, Overseer of No. 1 Iron Gang, holding a ticket of leave, before the Executive Council, this 7th day of May, 1829. Examination of G. Plumley.

What situation did you hold in December, 1826, near Emu Plains, and have you held it ever since?—An overseer of No. 1 iron gang on Lapstone Hill, near Emu Plains, and I have held it ever since.

Do you recollect private Thompson, of the 57th regiment, having been sent to your gang in irons of a particular construction?—I recollect it perfectly well. Transfer of P. Thompson to iron gang.

How long did he wear those irons?—To the best of my knowledge three weeks, and during that period he was for a time in Penrith gaol.

By whose orders were they taken off?—By order of his Excellency the Governor, communicated to me by Mr. James Kinghorne, Thompson being then in gaol at Penrith. I then went to Mr. M'Henry for the purpose of getting the prisoner out of gaol to take his irons off. Removal of irons from P. Thompson.

What became of the irons after they were taken off Thompson?—They were delivered up by me to Mr. James Kinghorne, superintendent of Emu Plains.

Are either of the two sets now produced the irons worn by Thompson?—Yes, they are. I know them from a chisel mark which I made upon them when taking the rivets off. Identification of irons.

Did you ever ascertain their weight?—I did not. I considered them to weigh from nine to ten pounds. Weight of irons used by P. Thompson.

What are the weights of the irons worn by the convicts in your gang?—I have only the irons, which come out in prison ships from England, weighing from three and a half to four pounds. Irons used in iron gang.

Did you ever have Thompson's irons again in your possession, and on what occasion?—Yes, by order of Captain Dumaresq, to forward them to the road department store at Parramatta. Removal of irons to Parramatta.

How were they conveyed to Parramatta, and by whom?—In a cart by one of my assistant overseers, who took about nineteen other pairs of irons at the same time.

Are you sure that they were not removed by Captain Dumaresq in a sack in his gig?—I am positive that they were not so removed. Captain Dumaresq had no gig with him; he was on horse-back.

Did you ever see any other chains at your gang or near Emu Plains of a similar description?—No, I did not. I never saw any such in my life before.

Did it appear to you that Thompson suffered any more than inconvenience from these chains?—No, he did not appear to suffer pain from them. Effect of irons on P. Thompson.

Why was he sent to Penrith gaol?—Because he refused to work. Refusal to work in iron gang.

What reason did he assign for refusing to work?—He said that, as long as he had that ring round his neck, he would not work for Jesus Christ. I, in consequence, sent him by my assistant overseer to be delivered over to the keeper of the lock-up-house, to be brought before the bench for refusing to work, he being then apparently in perfect health.

GEORGE PLUMLEY.

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Enclosure L to the Proceedings of the Executive Council.

Minute No. 11 of 1829.

Examination of J. Mitchell.

EXAMINATION of *James Mitchell*, Esq., Surgeon of the General Hospital, Sydney, before the Executive Council, this 7th day of May, 1829.

On what day did you first know of the indisposition of Private Joseph Sudds of the 57th regiment?—On the evening of the 26th November, 1826, when he was received into the general hospital from the gaol.

Admission of J. Sudds to general hospital.

Did you see Sudds, previously to his removal to the general hospital from the gaol?—I did not.

By whose order was he removed to the general hospital?—I conclude that it was done in the usual manner, at the representation of the attending surgeon of the gaol to the sheriff, of the necessity of the removal of that individual to the general hospital for medical treatment and comforts, which he could not obtain so beneficially in the gaol.

Did you attend him when in the hospital; and what, in your opinion, was the nature of his complaint?—I did not attend him. He was admitted in a state of delirium; and, from the representation of Mr. M'Intyre, who attended him in the gaol, I conceived that the delirium was the consequence of weakness from his having refused nourishment for several days previous to his admission.

Cause of illness.

Death of J. Sudds.

When did Sudds die?—He died on the forenoon of the 27th November, 1826.

Report made to J. Bowman.

Did you communicate his death to the Governor or to the Colonial Secretary; and, if so, when?—I did not communicate his death to either, but I made the circumstance known to Dr. Bowman, the inspector of colonial hospitals.

Are you aware of any communication having been made to the Governor, or to the Colonial Secretary, of the state of Sudds's health previous to his death?—I am not.

Post-mortem examination on body of J. Sudds.

Did you examine the body of Sudds after death?—I attended at the examination, and assisted Mr. M'Intyre in opening the body.

What appearance did you observe in the body to indicate the proximate cause of death?—The body appeared in general healthy, and no particular organ was so materially affected as might justly be called the proximate cause of death. The liver seemed to indicate that he had lived freely, but it was more functional derangement than organic disease.

Cause of death.

Have you been able to form an opinion as to the actual cause of Sudds's death?—From the history given by Mr. M'Intyre, which is partly recited in another answer, I am of opinion that he died from inanition in conjunction with all the distressing passions connected with his unfortunate situation. Mr. M'Intyre had stated to me that, while in gaol, Sudds had a dropsical affection and bowel complaint, from which he recovered; and that he was inclined to think that the affection of the bowels was the principal cause of his decease.

No necessity for inquest.

Did you think it necessary to call a coroner's inquest?—I did not.

Why not?—Because it is not customary in such cases.

Are you aware of any order or intimation being issued, directly or indirectly, from the Governor, Colonial Secretary or any department of government, not to hold an inquest?—No, I am not.

Have you seen the irons which were put on Sudds?—I have not.

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Examination of J. Mitchell.

Will you now examine them, and state your opinion whether those irons, which were put on private Sudds, and which he had on for about twenty-eight hours, could have occasioned his death?—I have examined them, and am of opinion that the wearing of the irons now produced for twenty-eight hours was not the cause of Sudds's death.

Death not due to irons.

Did you examine Sudds's throat after death?—I did not; I was called away; but I do not believe that the windpipe or bronchia were diseased.

Effect of wearing irons.

In your opinion, would the wearing of those irons for twenty-eight hours seriously injure the health of a man otherwise free from disease?—I do not conceive that the wearing of those irons for the period above specified would seriously injure the health of a man otherwise free from disease.

J. Mitchell.

Enclosure M to the Proceedings of the Executive Council.

Minute No. 12 of 1829.

Examination of W. H. Moore.

Examination of *William Henry Moore*, Esquire, before the Executive Council, this 8th day of May, 1829.

Interview with W. C. Wentworth.

Did you at any time make any communication, by order of the Governor, to Mr. Wentworth, respecting the death of private Sudds, of the 57th regiment; if so, please to state what that communication was?—I did have a communication with Mr. Wentworth by desire of the Governor, and on two occasions; immediately afterwards, I stated to the Governor fully the whole particulars of the conversation that passed. It is so long ago now that I cannot trust my memory.

Did the Governor tell you to ask Mr. Wentworth, for God's sake to exert his (Mr. Wentworth's) influence with the editor of the Australian to put a stop, if possible, to the observations it continued to make in the case of Sudds and Thompson, and that the Governor solicited his (Mr. Wentworth's) advice, and would follow any such advice, if given?—I cannot speak as to expressions. My impression is that the Governor did ask me to request Mr. Wentworth to use his influence with the editor of the Australian newspaper to put a stop to observations, that were appearing in that paper respecting the death of Sudds, and that I did so. Mr. Wentworth stated, in answer, that he had nothing to do with the Australian newspaper himself, nor had he any influence over the editor; Mr. Wentworth further stated that, as long as the Sydney Gazette continued to make allusions to that subject, it was to be expected that the other Journals would also make comments on it. I certainly do not recollect that the Governor ever requested me in any way to ask Mr. Wentworth's advice on the subject, or that he stated he would follow the advice that Mr. Wentworth would give.

Request for support from W. C. Wentworth.

Did the Governor desire you to urge Mr. Wentworth to prosecute his intended impeachment?—The Governor, I believe, had received an intimation from Mr. Wentworth, that he intended to forward to England an impeachment against him with respect to this matter; and the Governor requested me to urge Mr. Wentworth to expedite the forwarding it by a vessel, which was then about to sail, and also to forward to the Governor the copy which Mr. Wentworth had pledged himself to give to him.

Request to expedite impeachment.

What situation did you hold at that time?—I was acting Attorney General.

W. H. Moore.

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Enclosure N to the Proceedings of the Executive Council.

Minute No. 12 of 1829.

Letter from W. H. Moore.

COPY of a Letter from *William Henry Moore*, Esquire, to the Honourable Alexander M'Leay, Esquire, dated George-Street, Sydney, 8th May, 1829.

Sir,

I was called upon to attend the Executive Council this morning so unexpectedly, and the subject of my examination came so much by surprise upon me, that I had not time to call to memory the transactions to which I was required to speak. I believe my answers were as full as my memory will at this time serve me, excepting one in particular, on which it now appears to me some emphasis was laid, namely, respecting my being requested or desired by the Governor to ask Mr. Wentworth his advice as to how he ought to act in the matter of Sudds and Thompson's case, etc.

Evidence given before council.

Desire of R. Darling to submit facts to legal authorities.

In my conversation with the Governor previously to my waiting on Mr. Wentworth on the occasion alluded to, he desired me to tell Mr. Wentworth that he was willing or anxious to submit the whole facts of Sudds's and Thompson's case to the law authorities here, to judge whether he had acted illegally or with improper severity considering the circumstances of the case; and that, if he, Mr. Wentworth, would advise or point out any method of so bringing it before the cognizance of the court here, he (the Governor) would follow the method he would point out for that purpose. I told the Governor that no proceeding of the kind could take place in the colony. I think he replied that I might as well tell Mr. Wentworth so, and that he, the Governor, would concur with him in any measure for that purpose. At any rate, I did repeat that part of the Governor's conversation to Mr. Wentworth, and he was of my opinion that no such line of proceeding could be adopted.

I have, &c.,
W. H. MOORE.

Enclosure O to the Proceedings of the Executive Council.

Minute No. 12 of 1829.

Examination of H. Steel.

EXAMINATION of Mr. *Henry Steel*, Governor of the Gaol of Sydney, before the Executive Council, this 8th day of May, 1829.

What situation did you hold in November and December, 1826?—Governor of His Majesty's gaol in Sydney.

Petitions from convicts to labour in iron gangs.

Is it known to you that any prisoners, under sentence of transportation to penal settlements, have frequently petitioned government to have their sentences commuted to service on the roads in irons?—I have frequently known prisoners make applications for commutation of sentence, which have been acceded to by their being sent to iron gangs for a specific period to work on the roads.

Have the prisoners in such cases considered such commutation a mitigation of sentence?—I recollect but one instance to the contrary, that of private Patrick Thompson, of the 57th regiment.

Have you not delivered to the Colonial Secretary petitions from prisoners, who have been sentenced to penal settlements, expressly praying to have their sentences commuted to work on the roads in irons?—I may have done so, but I cannot call to my memory any particular instances, the applications were so numerous.

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Examination of H. Steel.

Irons worn by P. Thompson.

Do you know whether the irons, which had originally been put on private Sudds, of the 57th regiment, were afterwards put on private Thompson of the same corps?—I believe they were when Thompson broke the chain of irons.

By whose orders was this done?—If it was done at all, it must have been done by the orders of Mr. Willson, the under gaoler. I was attending at the Supreme Court at the time.

No report made on illness of J. Sudds.

Do you know if the illness of Sudds, while in gaol, was ever reported to the Governor or to the Colonial Secretary?—It was not, it not being usual in such cases to do so. HENRY STEEL.

Enclosure P to the Proceedings of the Executive Council.

Minute No. 12 of 1829.

Examination of R. Robison.

EXAMINATION of Captain *Robert Robison*, of the New South Wales Royal Veteran Company, before the Executive Council, this 8th day of May, 1829.

Inspection of irons at Emu plains.

When you were at Emu Plains on your return from Bathurst, was a set of irons shown to you as being the set which had been on private Thompson of the 57th regiment?—They were.

Who was present when those irons were shown to you?—To the best of my recollection the superintendent in charge, Mr. Kinghorne, Lieutenant Christie of the Buffs, and I will not be positive, but I think also a person of the name of Beauvais, and I think one of Mr. Kinghorne's brothers, as it is now two years this month since the circumstance took place, will account for my not being exactly positive as to the two latter.

Was any more than one set of irons shown to you at that time?—What was called the irons that had been placed on private Patrick Thompson, of the 57th regiment, consisted of an iron collar with two projecting spikes, and communicating from the collar by chains to the legs, and also two heavy chains extending from one leg to the other.

Was there more than the set you have now described?—To the best of my recollection not.

Identification of irons.

Could you identify those irons, if you now saw them?—I could not positively take upon myself to swear as to the identical chains; but I think I could positively say, if I saw them, whether they were the set I tried on in company with Lieutenant Christie of the Buffs.

Look at the two sets now before you, and say which of them is the set which was shown to you at Emu Plains?—I cannot take upon myself to say exactly which of those two, that are now produced, was the set that I had on at Emu Plains. They both appear to be similar to those I had on as regards the neck and the chains communicating below, but that I feel confident, as far as my recollection serves, there was an infinitely greater weight of chains on the legs than is appended to those here.

Height of R. Robison.

Will you have the goodness to state your height?—About five feet eleven inches.

Opinion *re* inability to hold irons on one arm.

Do you recollect whether any person who was present on the occasion, when you tried on the chains at Emu Plains, held the whole in his hand with a stretched out arm?—I have not the slightest recollection, and I think it morally impossible that he could have held the whole of them out with one arm.

What is your idea of the weight of the chains you tried on at Emu Plains, and those you now see?—Those I saw at Emu Plains

1829. 28 May. — Examination of R. Robison. Estimated weight of irons.

I thought or guessed to be about thirty or forty pounds, but they might have been less; but my impression at the time I tried them on was that it was more. It was candle light when I tried them on, and, as I now see those presented to me by daylight, it is possible I might have been wrong in guessing their exact weight. I consider the weight of those now exhibited to me, at a hazard, eighteen or twenty pounds.

R. Robison,
Captain, N.S.W. Rl. Vetn. Coy.

Enclosure Q to the Proceedings of the Executive Council.

Minute No. 13 of 1829.

Examination of T. Shadforth.

Examination of Lieutenant-Colonel *Thomas Shadforth*, of the 57th Regiment, before the Executive Council, this 9th day of May, 1829.

Will you have the goodness to state, if you were present when the irons were put on private Joseph Sudds and Patrick Thompson, of your corps, in November, 1826?—I was. I commanded the regiment at the time.

Health and conduct of J. Sudds at military punishment.

In what state did Sudds appear to you to be at that time; and did you observe any levity of manner after his irons were put on?—Sudds appeared to me to be in a sickly state, but I attributed it to his having been a hard drinker, and being deprived of the stimulus he had been used to and to the excessive heat of the day. I did not observe any levity of manner in either of them, after the irons were put on; previously, I did. When the convict clothing was laid down before them (which it was intended they should wear after being stripped of their military clothing), Thompson, taking up a part of the dress, exclaimed, "Dam'd handsome trowsers these," or words to that effect. Sudds, who heard this, turned round and laughed.

Did Sudds sit down either before or after the irons were put on when on the parade, and in presence of the troops which were under arms to witness the ceremony?—I really cannot positively state, but I think he did sit down to have his convict shoes put on, which he seemed to effect with difficulty, his feet being swollen.

How near were you to Sudds at the time?—I should think, to the best of my recollection, from five-and-twenty to thirty yards.

Absence of medical report *re* health of J. Sudds.

Was any representation made to you by the surgeon of the regiment, or any other medical officer, respecting the state of Sudds's health at that time?—No.

Was there any medical officer of the garrison present during the ceremony?—Not that I am aware of. If there had been, he would have reported to Colonel Stewart and not to me, if any medical report had been necessary.

Do you know whether any report was made of the state of Sudds's health to the Governor, or to any department of government, previously to his being taken from the gaol to the parade to have the chains put on him, or afterwards, prior to his death?—I do not.

Character of J. Sudds;

What was the general character of Sudds?—His conduct, as a soldier, I considered bad. He was a drunkard, and in one instance I knew him to have been dishonest, independently of the act of which he was convicted.

and of P. Thompson.

What was the general character of Thompson?—He was not a bad man, but being silly was easily imposed upon, and consequently became troublesome. In the present instance he was, in my opinion, the dupe of Sudds, who was a deep designing man.

T. Shadforth, Lt. Colonel.

Enclosure R to the Proceedings of the Executive Council.

Minute No. 13 of 1829.

1829. 28 May.

FURTHER Examination of *William Dumaresq*, Esq., late Civil Engineer, before the Executive Council, this 9th day of May, 1829. Examination of W. Dumaresq.

With reference to your examination of the 6th instant, will you state by whose orders the chains were taken off private Thompson, when working in the No. 1 iron gang?—In December, 1826, I wrote to Mr. Kinghorne, by order of the Governor, to desire that all the extra irons worn by Thompson should be struck off, and those only usually worn by convicts in iron gangs kept on, in consequence of the reported good conduct of Thompson. Order for removal of special irons from P. Thompson.

How long was this after he was sent to the gang?—I think about three weeks.

Is it the regular channel for the inspector or surveyor of roads and bridges to receive similar orders for the mitigation of sentences?—Certainly, I consider it so, of convicts employed on the roads. Routine for orders *re* convicts in iron gangs.

Did you take the irons away from Emu Plains in your gig?—Certainly not. Removal of irons to Parramatta.

By whose orders, and by what conveyance were they carried from Emu Plains to Parramatta?—I gave directions to overseer Plumley to send them down to the store at Parramatta, together with such other extra irons as he had then by him, and they were received by serjeant Mason, who is the storekeeper, the following day. On their arrival at Parramatta, I gave directions to the storekeeper to send them up to government house there, where they have been ever since, until a few days ago.

Have you ever, at any period, conveyed these chains in your gig?—Never.

W. DUMARESQ.

Enclosure S to the Proceedings of the Executive Council.

Minute No. 16 of 1829.

EXAMINATION of Mr. *Charles Nye*, Clerk in the Colonial Secretary's Office, before the Executive Council, this 14th day of May, 1829. Examination of C. Nye.

What situation did you hold in November, 1826?—That of clerk in the office of the Colonial Secretary.

Do you register all letters and communications made to the Colonial Secretary?—I do those of a public nature.

Have you any record of any communication made to the Colonial Secretary in November, 1826, on the state of the health of the late Joseph Sudds, a private in the 57th regiment?—On searching the register I do not find I have, nor have I any knowledge of any such communication having been made. If such had been made I must have known it. No report received *re* health of J. Sudds.

CHARLES NYE.

Enclosure T to the Proceedings of the Executive Council.

Minute No. 16 of 1829.

EXAMINATION of Mr. *Alexander Kinghorne*, junior, Millwright, before the Executive Council, this 14th day of May, 1829. Examination of A. Kinghorne, junior.

Do you recollect Captain Robison and Lieutenant Christie being at Emu Plains, and examining the chains which had been worn by Patrick Thompson of the 57th regiment, and about what time?—I recollect perfectly that both Captain Robison and Lieutenant Inspection of irons by R. Robison.

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Christie were there about the month of May, 1827, and they both examined the chains.

Examination of A. Kinghorne, junior. Remarks on weight of irons.

Do you recollect Captain Robison and Lieutenant Christie making any remarks on those chains?—Yes; I recollect Mr. Christie saying they would weigh about sixty pounds. I took the irons up in my hand, and stretching out my arm said, "it was impossible I could hold out sixty pounds in that way." Captain Robison and Mr. Christie said it was all habit. I might perhaps hold out a hundred weight.

What is your opinion as to their weight?—I think they weighed somewhere between fourteen and fifteen pounds.

Irons tried on by R. Robison.

Did Captain Robison try them on?—Yes, he did.

Did he lie down and turn himself on the floor with them on?—Yes, he did.

Identification of irons.

Are either of the sets now produced the same as those you held out in your hand, and which Captain Robison tried on?—Yes, I know it was this set from a nail in one of the basils.

At the time you saw them on Captain Robison, did you observe any more iron about the legs than you see at present?—No; if there had been, I should have observed it.

Did you then, or do you now, hold any situation under government?—No.

ALEXANDER KINGHORNE.

Enclosure U to the Proceedings of the Executive Council.

Minute No. 18 of 1829.

Examination of E. Lockyer.

EXAMINATION of *Edmund Lockyer*, Esquire, Surveyor of Roads and Bridges, before the Executive Council, this 18th day of May, 1829.

Were you major of the 57th regiment until very recently?—I was so until November, 1827.

Characters of J. Sudds and P. Thompson.

What were the characters of privates Joseph Sudds and Patrick Thompson of that corps?—I knew their characters to be indifferent.

Self-inflicted wounds to obtain military discharge.

Had there been any instances of soldiers maiming themselves before the regiment came to New South Wales, or committing offences for the purpose of getting rid of the service?—Yes; there was one man at Portsmouth, whose name I do not immediately recollect, embarked in the Asia as a part of the guard over the convicts on board that ship, and was reported to me by the officer commanding the detachment as having shot himself through the arm, suspected to be for the purpose of obtaining his discharge. On the arrival of the same detachment at Sydney, another man shot himself in the arm, and the wound was so bad it was necessary to amputate the arm. This was also supposed to be for a like purpose. In consequence of these two occurrences, I reported them to Sir Thomas Brisbane, as I thought it necessary that some measures should be taken to put a stop to such practices, more especially as there seemed to be a bad feeling among some of the old soldiers of the regiment at the time.

What situation do you now hold?—I am surveyor of roads and bridges.

Irons used in iron gangs.

Do you know whether irons, with basils of a flat form, be now used in the iron road gangs?—Yes, partially at present. It is intended to alter the whole of them from the facility the convicts find in slipping the round basils over their heels.

Can you explain why no flat basils are used in Plumley's iron gang No. 1?—Plumley being distant from a forge was unable to have the basils for his convicts altered. E. LOCKYER. 1829. 28 May.

Sworn before me at Sydney, this 18th day of May, 1829.
F. ROSSI, J.P., and Pl. Superintd. of Police.

True Copies:—E. DEAS THOMSON, Clerk of the Council.

[Enclosure No. 3.]

[*This was an extract from the issue of the "Australian" newspaper, dated 25th November, 1826; see page 722, volume XII.*] Report in *Australian* newspaper.

[Enclosure No. 4.]

LIST of Men of the 3rd and 57th Regiments, who are sentenced to Transportation, or maimed themselves with a view to obtaining their Discharge from the Service. Return of cases of crime or self-maiming to obtain military discharge.

3rd Regt. (or Buffs).

Private	Yems	Desertion from his Post when on Sentry and attempting to escape with Convicts.
,,	Colthorpe .	Stealing in a Dwelling House.
,,	Hannan ..	Maiming himself.
,,	Crawford .	do —Cut off a Thumb.
,,	Bushnell ..	do —Shot off an arm.

57th Regiment.

Private	Wright ...	Larceny.
,,	Hogan	do
,,	Kearney ..	do
,,	Sudds	do
,,	Thompson .	do
,,	Jones	Maiming himself—Shot off an Arm.
,,	Dougherty .	do do

[Enclosure No. 5.]

MR. W. C. WENTWORTH TO GOVERNOR DARLING.

Sir, George Street, 14th May, 1829.

It is with extreme surprise, not unmingled with feelings of indignation, that I have learnt from common report, as well as through other channels, that the Executive Council has been convened by you to enquire into and report upon the statements contained in my letter of the 1st of March last on the case of Sudds and Thompson, addressed through you to the Right Honorable the Secretary of State for the Colonies. I thought that in that letter I had advanced arguments sufficiently urgent to have prevented this indecent repetition of such a farce as is now in progress. I perceive I was mistaken; and I consider it only an act of duty to myself to protest against this solemn mockery of an enquiry on the following grounds:— Protest by W. C. Wentworth against inquiry by council. Reasons for protest.

1st. Because the Executive Council is not competent to administer an oath and does not, therefore, possess the attribute, which the law holds to be indispensable to the elucidation of truth; and because it has not jurisdiction over the matters which I have laid to your charge. Inability to administer oaths. Want of jurisdiction.

1829. 28 May.

Objections to members of council.

2nd. Because one of the members of this illegal and unconstitutional conclave, Mr. McLeay, is involved with you as accessary; because another of them Mr. Scott is notoriously your shadow; and because the third and last of them Colonel Lindsay is your private friend; and, if he were ever disposed to act impartially, he would be outvoted by your creatures in the Council; and, besides, he possesses neither ability nor knowledge of the subject sufficient to enable him to direct a proper course of examination to the witnesses.

Absence of F. Forbes.

3rd. Because the Chief Justice is not present at the sittings of the Council and the very moment of his temporary absence from town during the vacation seems to have been seized upon* by you as the fittest for smuggling the report which is the manifest object of this enquiry.

Ex parte proceedings.

4th. Because it is purely an exparte proceeding in which you are represented by the whole Council, who are in fact but your nominees; whilst I who ought to be equally a party to it am not invited or indeed suffered to be present either in person or by my proxy.

Influence of governor on witnesses.

5th. Because it is absurd to expect, under the reign of terror which you have established, that any person in place or out of place, unless under the solemn obligation of an oath which would entail on perjury its penal consequences, would willingly expose himself to that organized System of persecution, which every one here knows would be sure to follow upon the heels of any statement of facts, which did not prove exactly palatable to you.

Non-preparation of witnesses.

6. Because it has come to my knowledge that some of the most unexceptionable of the witnesses, who have been examined, have been suddenly called upon without any intimation whatever of the objects, for which they were summoned, and consequently without any opportunity of refreshing their memories after an interval of more than two years as to the facts upon which their testimony was required.

Request for transmission of protest to England.

I have to request that this my protest may be forwarded by you to the Right Honorable the Secretary of State for the Colonies together with the proceedings and Report of the Executive Council, in order that His Majesty's Ministers may be apprized of the nature of the source from which these vindicatory documents have sprung, and may be thereby enabled to form a just estimate of the character as well of the author of this farce as of the two prominent actors in it, Mr. McLeay and his coadjutor Archdeacon Scott.

I have, &c.,

W. C. Wentworth.

[Enclosure No. 6.]

Chief Justice Forbes to Governor Darling.

Sir, Sydney, 27th April, 1829.

Letter acknowledged.

Referring to the communication, which your Excellency made to me yesterday, that His Majesty had been pleased to relieve me from holding a place in the new Executive Council, and to the offer which Your Excellency considerately made, of suspending the publication of the Warrant appointing the new Council, to afford me an opportunity of attending the investigation of the Charge preferred against the Report of the late Council in the case of the two Soldiers, I beg leave to inform your Excellency that, after consulting with my Brother Judges, we agree in thinking that

* Note 249.

it will be more in accordance with what we apprehend to be the views of His Majesty's Government in separating the Executive and Judicial Departments, if I, as the Chief Justice, should take no further part whatever in the proceedings of the Executive Council; and the more especially in the particular case alluded to, as my conduct has been already arraigned with regard to what passed in Council, as being contrary to my Office. 1829. 28 May. Refusal to participate in inquiry by council.

I have, &c.,
FRANCIS FORBES.

[Enclosure No. 7.]

[*This was a copy of the memoranda by chief justice Forbes, which will be found on pages 763 and 764, volume XII.*] Memoranda on case of J. Sudds and P. Thompson.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(A circular despatch per ship Guilford; acknowledged by Governor Darling, 12th February, 1830.)

Sir, Downing Street, 31 May, 1829. 31 May.

I am directed by Secretary Sir George Murray to transmit to you herewith a printed paper, containing certain questions, which have been proposed by the Royal College of Physicians; and I am to request that you will transmit to Sir George Murray detailed information upon the several points, therein enumerated, as far as they have reference to the Colony under your Government. Transmission of queries from royal college of physicians.

I have, &c.,
HORACE TWISS.

[Enclosure.]

QUESTIONS PROPOSED BY THE ROYAL COLLEGE OF PHYSICIANS, LONDON. Questions proposed *re* scientific data.

1. What is the population of the place?
2. What proportion do the annual deaths bear to the population?
3. Are there any remarkable instances of longevity among the inhabitants?
4. What are the features, complexion, colour of the hair, and average stature of the natives?
5. What is the medium height of the thermometer in the summer and winter months?
6. From what quarter do winds chiefly prevail, and during what months?
7. What is the nature of the soil?
8. Are there any mineral springs there? If so, are they saline, chalybeate, sulphureous, or of what nature?
9. What are the medicinal substances of the country, and how are they prepared?
10. What diseases prevail there?
11. In what season of the year does illness most prevail, and what are the diseases incidental to the seasons?
12. What remedies do the natives employ in the diseases to which they are subject?
13. What is the education of those who practise medicine?
14. Have the natives any writings or traditions on medical subjects?
15. What is the diet of the natives?
16. Do they practise vaccination? If so, whence do they obtain the lymph?

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Governor Darling to Sir George Murray.

(Despatch No. 68, per ship Vesper.)

Sir, Government House, 31st May, 1829.

Transmission of report by F. Forbes.

I have the honor, in obedience to the directions contained in your Despatch of the 30th of September last, No. 34, to transmit herewith the Chief Justice's Report of the evidence taken at the trial of James Kelly for Murder on the 25th of February, 1828.

I have, &c.,

Ra. Darling.

[Enclosure.]

Report on trial of J. Kelly.

Report on Trial of James Kelly.

In the Supreme Court.—25th February, 1828.

The King against James Kelly. } This was an Information, exhibited by the Attorney General against James Kelly, late of Parramatta, Laborer, for the wilful murder of John Fuller, at Parramatta, on the sixth day of February instant. The Information set out the manner of committing the murder to be *by discharging a loaded gun*, and wounding the deceased in the right side, of which wounds he died on the *following day*.

To this Information, the Prisoner pleaded, Not Guilty, and was immediately put upon his trial; but, before proceeding therewith, the Prisoner stated to the Chief Justice that his witnesses were not in attendance, and moved that his trial should be postponed; but, it appearing that he had been regularly notified of his trial, and his subpœnas had issued, and his witnesses had been summoned, the Court said it could not allow the trial to go over upon such a Statement, whereupon,

The Attorney General stated the case and called as witnesses:

Joseph Handle, sworn:—I am 13 years of age. I live in the district of Parramatta. I know the prisoner at the Bar; his name is James Kelly; on the 6th of February, James Kelly came to James Grady's house at Douro, 15 miles from Parramatta, and said he had been robbed, and asked for the loan of a gun; Grady gave it to him, and I went with the Prisoner 8 miles round the *rocks*, searching for Bushrangers. At last we came to a rock, where we saw a man, coming out upon his knees and hands; he said "for God's sake don't shoot me, and I'll give myself up." Before the words were out of his mouth, the Prisoner at the Bar shot him; the gun had been already loaded. Prisoner shot the man on one side, and he fell down, and I and the Prisoner ran off to Thomas Best's farm. Under the same rock, I saw a Basin and a tin pot, which the Prisoner stated he had lost.

Cross-Examined:—I tracked the deceased from Prisoner's house for some distance and we lost it; we afterwards saw a smoke, which led us to the rock where we saw the deceased, as before described. His name was *Fuller*.

William Moore.—I am district constable at Castle-hill. On the 6th instant, the Prisoner came to my house, and *informed me he had shot a man dead; he described where it had happened*, and went into Parramatta to report it. *I went to the place described by the Prisoner, and saw the deceased lying upon his back, covered with*

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Report on trial of J. Kelly.

blood; he said Kelly had shot him. I asked him if he thought his wound was mortal; he said "no, the villain has not done the trick, and I'll *visit him again.*" I supposed he meant he would *rob*, or do some private injury to the Prisoner. I examined the wounds of the deceased, and carried him to the Hospital. I found several articles of clothing at the cave, but do not know of their being claimed by any one. The hole in the rock, where I found him, was small; it seemed as if he had been sleeping there.

Cross Examined:—*The deceased was a Prisoner at large; he had run from an iron Gang, and I had endeavoured to apprehend him. I once before apprehended him near Best's farm, and there were several things upon him, which belonged to the Prisoner, and which the Prisoner had before described to me as having been lost by him, and stolen by the deceased.* The Prisoner bears a good character as a quiet man.

John Tunnicliffe:—I attend the Hospital at Parramatta. On the 6th of February a person named *Fuller* was brought to the Hospital; *he stated that he had been shot by the Prisoner Kelly, that he had robbed Kelly twice before*; and, on his finding him in the rock, he said he would give himself up, but Kelly shot him immediately. He died the following day of his wounds.

James Anderson, Esq.:—I am a Surgeon at Parramatta. I saw the corpse of a man named Fuller; he had been wounded under the right arm; there were two small holes, apparently made by bullets; the body was then in a putrid state; but I have no doubt the wounds in his right side were the cause of his death.

Case for the Crown.

The Prisoner, on being called upon for his defence, called:

Bryan McMahon, sworn:—I know that the deceased was a runaway from an iron-gang, and had committed frequent robberies, which caused him to take the bush. The name of the deceased was "Thomas Fuller," sometimes called "John Fulton." I know nothing of the transactions at Douro on the 6th day of February.

Michael O'Brien:—I am Settler at Seven-Hills; I know the Prisoner at the Bar; his character is very good, and his conduct always moderate.

The Chief Justice, in summing up the case, told the Jury that, although it appeared in evidence that the Prisoner had been robbed, and had immediately gone in pursuit of the person, who, as he believed, had robbed him, and had found part of the plundered property under circumstances, which hardly left any reasonable ground of doubt that the deceased had been the thief, yet, as the Prisoner had taken on himself the Office of a Constable in his own case, he was bound to execute this Office in the same manner and with the same force only, as a constable would be warranted in using; that he had an undoubted right to repossess himself of his own property; but, if he determined to apprehend the robber, he was bound to do so in a peaceable manner if possible; and not on any pretence, whatever, to use more force than was necessary to effect this object, or to protect his own person in case any violence had been offered or menaced; That it did not appear that any resistance whatever had been made by the deceased; but that he had apparently surrendered himself, and appealed to the Prisoner "not to shoot him"; it was for the Jury to say whether the Prisoner

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had unnecessarily and maliciously fired at the deceased, or whether they could discover any circumstances in the case, which would lead them to believe that he acted under an impression of fear and shot the deceased under a supposed necessity of self defence.

The Jury found the Prisoner Guilty, and the Chief Justice immediately passed sentence of death upon him, and ordered him for execution on the Monday following.

A true copy from the original notes of the trial and Evidence as taken by me.—Witness my hand, this 23rd day of May, 1829.

FRANCIS FORBES.
Chief Justice, New South Wales.

COMMENTARY.

COMMENTARY

ON

DESPATCHES,

March, 1828—May, 1829.

Note 1, pages 1, 2 and 575.

Letters introducing Settlers.—Assignments of Convicts.

The letters, introducing settlers or transmitting assignments of convicts, were a repetition of one another, subject to the necessary alterations in names and figures. The usual type of a letter, covering an assignment of convicts, is exemplified in the despatch from Sir H. E. Bunbury to Governor Macquarie, dated 16th January, 1816 (*see* page 1, volume IX). Unless any additional matter has been added to the usual form, all these letters have been omitted.

Note 2, pages 3, 575 and 576.

The following despatches.

These despatches were covering letters to the enclosures. Those enclosures, which are available, will be found in volumes of the series to which they belong.

Note 3, page 3.

Also pages 16, 180, 196, 221, 226, 243, 246, 248, 249, 283, 317, 344, 637, 645, 672, 673, 688, 690, 692, 695, 735 and 742.

Lord Francis Leveson Gower to Governor Darling.

Copies of these despatches are preserved in the record office at London, but there is no evidence available of their transmission to the colony.

Note 4, pages 5 and 8.

The new Bill.

This was the bill to provide for the government and administration of justice in the colony after the statute 4 Geo. IV, c. xcvi, expired. It was passed on the 25th of July, 1828, as 9 Geo. IV, c. lxxxiii.

Note 5, page 5.

Chief Justice Forbes' Letter.

A copy of this letter with the "Remarks" will be found on page 821 *et seq.*, volume XIII.

Note 6, page 6.

The Act of 4th Geo. 4th, Ch. 84.

The reference was probably to the act 5 Geo. IV, c. lxxxiv, entitled "An Act for the Transportation of Offenders from Great Britain."

Note 7, pages 6, 7 and 14.

The "Remarks."

These "Remarks" will be found on page 654 *et seq.*, volume XIII.

Note 8, page 9.

24th Section of the present Act.

The reference was to the following:—

"Provided nevertheless that, if it shall appear to the Governor or Acting-Governor for the Time-being of the said Colony that such proposed Law or Ordinance is essential to the Peace and Safety thereof, and cannot without extreme Injury to the Welfare and good Government of the said Colony be rejected, then and in every such Case, if any one or more Member or Members of the said Council shall assent to such proposed Law, the said Governor shall enter upon the Minutes of the Council the Grounds and Reasons of such his Opinion, and, in every such Case and until the Pleasure of His Majesty, His Heirs and Successors, shall be made known in the said Colony respecting the same, such Law or Ordinance shall be of full Force and Effect in the said Colony and the Dependencies thereof, any such Dissent as aforesaid of Majority of the Members of the said Council notwithstanding."

Note 9, pages 10 and 39.

The Instructions.

A copy of these instructions will be found on page 483 *et seq.*, volume XII.

Note 10, page 14.

The controversy.—A similar correspondence.

Papers relating to the appointment of the registrar and solicitor-general will be found on pages 802 *et seq.* and 509 *et seq.*, volume XIII.

Note 11, page 15.

The Arrangements.

Proposals for the establishment of a civil service were detailed in a despatch, dated 30th October, 1827 (*see* page 568 *et seq.*, volume XIII).

Note 12, page 15.

Difficulty in procuring Surgeons.

John Gold, the surgeon to the settlement at Melville island, was killed by natives on the 2nd of November, 1827, whilst Wood, the surgeon at Fort Wellington, died of fever on the 15th of October preceding. Both settlements in north Australia were thus in a condition of great distress, as sickness was prevalent and there were no surgeons (*see* pages 823 and 817, volume V, series III).

Note 13, page 18.

Requisitions for the Stores and Supplies.—The Requisitions.

These voluminous papers have been omitted from this and the succeeding volumes in this series.

Note 14, page 23.

Two Volumes.

These volumes were entitled "Proclamations, Acts in Council, Government Orders and Notices, issued by His Excellency Lieut.-Gen. Ralph Darling, Captain-General and Governor-in-Chief of New South Wales." The first was for the period 1825-1826, and the second for the year 1827. Both volumes bore the imprint, "Printed by Robert Howe, Government Printer, Sydney, 1827."

Note 15, page 24.

The House.

In the year 1826, commodore Sir James Brisbane called at Port Jackson in H.M. ship *Warspite*, when on a voyage from India to assume command of the South American station. On his arrival, Governor Darling rented a house for his and Lady Brisbane's accommodation. On the 19th of December, 1826, about two months after his arrival, Brisbane died and was buried at Sydney (*see* also despatch, dated 26th February, 1827, page 129, volume XIII).

Note 16, page 33.

The Title of "King's Printer."

A memorial containing the same prayer was submitted to the secretary of state by William Fleming, Robert Howe's agent in England (*see* pages 695 and 696, volume XIII).

Note 17, page 35.

Your Brother.—A Gazette.

Robert Howe's brother was George Terry Howe. He and Dr. James Ross were appointed government printers in Tasmania on the 16th of June, 1825, by lieut.-governor Arthur.

The details of the foundation of the *Gazette* by lieut.-governor Arthur will be found on page xv, volume IV, series III.

Note 18, page 40.

Dr. Bland.

A note numbered 2 on the reasons for the transportation of William Bland to the colony will be found in volume XI. He became one of the leading practitioners in Sydney, and, when he received a full pardon, he preferred to remain in the colony rather than to return to England. It is interesting to note that, at the benevolent asylum, Sydney, he performed the third known case of ligaturing the innominate artery for subclavian aneurism. This case was reported in the issue of the *Lancet*, dated 20th October, 1832.

Note 19, page 40.

The published report.

This was a small pamphlet of twenty-four pages, printed at the *Monitor* press by Hill and Co. It contained two pages of resolutions passed at the annual meeting; three pages of rules and regulations of the society; eight pages of the report for the year ending 4th June, 1826; three pages of rules for the asylum; two pages of accounts; and three pages of a list of donations.

Note 20, page 41.

Two Sketches.

Copies of these sketches are not available. The locality and details of the various grants are recorded in the following note.

Note 21, page 41.

Also pages 42, 589 and 598.

The Land granted.

The land granted to F. Forbes on the banks of the Nepean river was known as Edenglassie. It was situated about two miles above the present bridge at Penrith. It was occupied by Forbes under an order from Governor Darling, dated 3rd April, 1826, which order was confirmed by a grant for one hundred and thirty acres, dated 15th December, 1831.

The land granted to A. Macleay was fifty-four acres, defined by certain boundaries; but, by subsequent survey, its area was found to be fifty-six acres and thirty-seven perches. It was first held under a promise given by Goveruor Darling before the 4th of October, 1826, which was confirmed by grant dated 19th October, 1831. The land lies on the eastern side of the modern Macleay-street, commencing from near the corner of Elizabeth bay road, aud extending to the waters of the harbour from Elizabeth bay on the east to Rushcutters' bay on the west.

The land granted to Johu Wylde was at the extreme end of Potts point with frontage to the harbour. The grant was for eleven aeres and was dated 1st November, 1822, and its southern boundary corresponded practically to the modern boundary of the property known as Grantham.

Between the southern bouudary of the grant to Wylde and the moderu William-street on the westeru side of Macleay-street, seven allotments were promised by Governor Darling as follows, commencing at Wylde's grant:— 8 ac. 0 r. 9½ p. to H. G. Donglass; 8 ac. 3 r. 23 p. to John Busby; 9 ac. 3 r. 33 p. to A. B. Spark; 11 ac. 0 r. 3½ p. to John Stephen; 9 ac. 3 r. 3 p. to A. Baxter; an allotment for W. Balcombe; and 8 ac. 2 r. 2 p. to James Dowling. On the southern side of the modern William-street, 5 ac. 2 r. 8 p. were allotted to J. Laidley. Some of these allotments extended from Macleay-street to the waters of Woolloomooloo bay. Balcombe died before he could receive the deed of grant. The remaining seven allotments were confirmed by deeds of grant, dated 19th October, 1831, which recited that they were in consequence of promises made prior to the 22nd of September, 1828.

Note 22, page 42.

That part of Sydney called Hyde Park.

The land lying to the east of the modern alignment of Elizabeth-street has been always open ground. Prior to the year 1810, it was known as "The Common," "Exercising Ground," "Cricket Ground," or the "Racecourse." By a general order, dated 6th October, 1810, Governor Macquarie named the area "Hyde Park," and defined it as bounded on the north by the government domain, on the west by the town of Sydney, on the east by the grant to John Palmer at Woolloomooloo, and on the south by the brickfields. This area includes the moderu Hyde, Phillip and Cook parks. On the 15th, 17th and 19th of October, 1810, the first organised race meeting was held in the park. The grandstand and wiuning-post were erected at the eastern end of Market-street; the course proper turned in front of St. James' church until it reached the front of St. Mary's cathedral; from thence, it followed closely the alignment of College-street to the front of Lyons-terrace; it then turned round, trending north to the corner of Park and Elizabeth streets, where the straight commenced and contiuued to the winning-post at Market-street.

Note 23, page 45.

The House erected by Governor Philip.

This house was erected on the site, which now lies at the south-western corner of Bridge and Phillip streets. The foundation stone was laid by Governor Phillip on the 15th of May, 1788, and an inscribed copper plate was attached. The inscription and the discovery of the plate in the year 1899 are detailed in note 117, volume I.

Note 24, pages 45 and 47.

The Bathing House.

This bathing house is still extant in the gardens of the state government house at Sydney, near the waters of Farm cove.

Note 25, page 48.

The Charter.—The arrangements.

The charter, by which trustees were appointed for the management of the clergy and school estates, was granted on the 9th of March, 1826; the draft, as prepared in England, will be found on page 444 *et seq.*, volume XI.

In a despatch dated 1st January, 1825, Earl Bathurst gave instructions (*see* page 434 *et seq.*, volume XI), for the subdivision of the colony into counties, hundreds and parishes. Commissioners were appointed for this purpose, who were directed to make an average valuation of the lands in each parish. After the survey and valuation of a county were completed, "one-seventh part in extent and value of all the lands in each County" was ordered to be set apart as the clergy and school estates. Delay in surveys and valuations made it impossible to transfer the lands to the trustees for some time after the charter was granted.

In February, 1829, 393,283 acres were assigned to the trustees as a preliminary grant (*see* page 638 *et seq.*).

Note 26, page 54.

A report.

This report will be found on pages 796 and 797, volume XII.

Note 27, pages 70 and 72.

The three great Roads.—Road parties.

A description of these roads will be found in note 68 in volume XIII.

On the western road the Grose farm station was situated on the lands now held by the Sydney university; the 5-mile station near the junction of the Liverpool and Parramatta roads; Longbottom at Burwood; the 10-mile station at Homebush; the 14-mile station near the junction of the Dog Trap and Parramatta roads; the Western station at Toongabbe; and the weatherboard hut at Wentworth falls.

Note 28, pages 77, 95 and 98.

These lands.—A Grant.

The grant at Cabramatta of twelve thousand three hundred acres was bounded on the north side by the Prospect common, on the south side by Cabramatta creek, and on the east side by Prospect creek and a farm belonging to Cummings.

The grant of Grose farm is now occupied by the Sydney university.

Note 29, page 79.

The Act of Parliament.

This was the statute 35 Geo. III, c. liii.

Note 30, page 79.

Major Mitchell.

A note on the previous career of Thomas Livingstone Mitchell will be found numbered 20 in volume XIII.

Note 31, page 100.

An Act.

This was the act of council, 7 Geo. IV, No. 4, entitled "An Act for vesting the Orphan School Estate in the Trustees of the Clergy and School Lands in the Colony of New South Wales, and for duly governing the Children at School and in Apprenticeship."

Note 32, page 103.

His Compulsory removal.

Governor Darling submitted a report on the termination of Saxe Bannister's service as attorney-general in a despatch, dated 27th October, 1826 (*see* page 660 *et seq.*, volume XII).

Note 33, page 105.

Captain Robison.

Robert Robison was most persistent in preferring charges against Governor Darling, even after the close of Darling's administration. On the 27th of March, 1833, Dr. Lushington presented a petition to the house of commons from Robison, complaining of ill-treatment by Darling. On the 11th of July, 1833, Lushington moved in the house for the production of the minutes of the court-martial on Robison, but the motion was defeated. On the 17th of July, 1834, Maurice O'Connell moved that the reports by R. Robison on the veteran companies be laid on the table of the house, but, after discussion, the motion was withdrawn. In the following year, Robison's case was mentioned three times in the house of commons, and finally, on the 7th of August, 1835, O'Connell secured the appointment of a select committee. The report of this committee was presented on the 1st of September, 1835, and Darling was fully exonerated on all charges.

Note 34, page 106.

His unfortunate Brother.

The papers, relating to the case of the brother of R. Robison, are not available.

Note 35, page 112.

The Military Barracks.

These barracks were erected on the western side of the site of the modern Wynyard-square and the parade ground extended to the western side of the modern alignment of George-street. A large building was commenced on the site by major Foveaux in the year 1808 (*see* note 192, volume VI). During the administration of Governor Macquarie, extensive additions were erected.

Note 36, page 116.

By my Commission.

The reference will be found on page 100, volume XII.

Note 37, page 116.

You have transferred the details of this troublesome Government.

In November, 1827, the British colonial possessions, for purposes of administration, were divided into two groups, one being placed in the charge of R. W. Hay, and the other of E. G. Stanley. The colonies of New South Wales and Van Diemen's land (Tasmania) were placed under E. G. Stanley (*see* pages 621 and 622, volume XIII).

Note 38, page 119.

A Mr. Blaxcell.

The particulars relating to the financial failure and absconding of Garnham Blaxcell were reported by Governor Macquarie in a despatch, dated 3rd June, 1817 (*see* page 416 *et seq.* and also note 101, volume IX).

Note 39, page 120.

A criminal Information against Mr. McArthur.

A dispute arose between George Howell and John Raine over a dam near Parramatta. Raine cut a drain, and Howell attempted to fill it in. John Macarthur supported the cause of Howell. In the dispute between the two men and their adherents, a riot was alleged to have taken place. On the 24th of March, 1828, application was made to the supreme court that a rule *nisi* should be made absolute for a criminal information against John Macarthur and others for this alleged riot. The application was refused with costs against John Macarthur, which amounted to between £300 and £400.

Note 40, page 129.

Three Steam Engines.

The first steam engine was imported to the colony in the ship *Fortune* in the year 1813 by John Dickson. As a reward for his enterprise, Dickson received a grant of three thousand acres, bounded on the west by South creek and on the north by Lowe's creek, and a second grant of fifteen acres three roods and four perches, situated on the west side of George-street to the south of Liverpool-street in the city of Sydney. This second grant extended to the head of Cockle bay or Darling harbour, and on it the first steam engine was erected.

Note 41, page 129.

The produce was exported.

The total revenue derived by the government from the sale of coal for the year ending 30th September, 1827, was £1,254 2s. Small shipments were made to Tasmania and India.

Note 42, page 133.

A Kind of Trading Establishment.—The New Zealand Company.

In the beginning of the year 1827, Thomas Raine formed an establishment at Hokianga (Shukianga) in the north island of New Zealand; spars and flax were collected for export, and shipbuilding was commenced.

The New Zealand company was formed in London in the year 1825. The ship *Rosanna* and the cutter *Lambton* were equipped for the purpose of exploration and conveying settlers to the islands of New Zealand at a cost of £20,000. The command of the expedition and the *Rosanna* was given to James Herd, who had visited New Zealand in the ship *Providence* in the year 1822, and Barnett commanded the *Lambton*. The vessels arrived in the Bay of Islands on the 26th of October, 1826, and from thence proceeded to Hokianga. At this port, some land was purchased from the Maori chiefs at a point now known as Herd's point. Land was also acquired at Manakau, Paroa, and on the borders of the Thames. After a few weeks' experience, Herd and the company's agent decided that the exports would not meet the expectations of the promoters of the company, who included the earl of Durham, colonel Torrens and Stewart Marjoribanks. The vessels accordingly left New Zealand on the 30th of January, 1827, and arrived at Sydney on the 11th of February, where the stores and equipment were sold.

Note 43, page 145.

Certain charges of torture and cruelty.

The "charges" were contained in a despatch from Sir Thomas Brisbane to Earl Bathurst, dated 28th September, 1825 (*see* page 852, volume XI).

Note 44, page 146.

The report of the Council.

This report will be found on page 854 *et seq.*, volume XI.

Note 45, page 146.

A reprimand.

This "reprimand" was contained in a despatch from Earl Bathurst, dated 4th August, 1826 (*see* pages 466 and 467, volume XII).

Note 46, page 148.

Also pages 150, 152, 194, 196, 234, 380 and 417.

The statement.

This was an octavo pamphlet of fifty-four pages and a sub-title, printed by Robert Howe, government printer, Sydney, 1828. It was entitled, "Statement, including a correspondence between the Commissioners of the Court of Enquiry and the Rev. Samuel Marsden, relative to a charge of illegal punishment, preferred against Doctor Douglass, held at Parramatta in July, 1825, by order of Lord Bathurst, together with some observations on the Bill of Indemnity."

Note 47, page 149.

True Bills.

The report of the grand jury will be found on page 858 *et seq.*, volume XI.

Note 48, page 150.

A bill of indemnity.

This was the act of council 6 Geo. IV, No. 18, entitled, "An Ordinance to stay proceedings in certain cases against Justices of the Peace in New South Wales and its Dependencies acting in execution of their office." It was passed on the 11th of October, 1825.

Note 49, page 150.

By order of the House of Commons.

This parliamentary paper was entitled:—"Papers relating to the Conduct of Magistrates in New South Wales in directing the Infliction of Punishments upon Prisoners in that Colony." It was ordered to be printed by the house of commons on the 18th of April, 1826.

Note 50, page 153.

Their land.

A copy of the grant of ten thousand acres in Illawarra to A. Berry and E. Wollstonecraft will be found on pages 792 and 793, volume XII.

Note 51, page 153.

Also page 155.

A Piece of Ground.

On the 21st of November, 1808, one acre and seven perches were granted to Simeon Lord by Joseph Foveaux. This was one of the first three leases within the limits of the modern city of Sydney, to which a freehold title was given, all lands being previously held on a leasehold tenure. This grant was confirmed by Governor Macquarie. The land was situated on the east bank of the Tank stream to the north of Bridge-street, which street bounded the south-eastern corner of the grant; it extended across the modern alignment of Pitt-street into Macquarie-place.

The land promised in exchange for this grant lay near the modern customs building at Circular quay.

Note 52, page 160.

My Letter.—Mr. Secretary Huskisson.

This despatch was written in ambiguous terms. It was signed by the right hon. W. Huskisson, and was one of the numbered series; but the phrase "I am directed by Mr. Secretary Huskisson" was used. The reference to "my letter" was to a despatch, numbered 96 and signed by Earl Bathurst (*see* page 706, volume XII).

Note 53, page 162.

One of the Public School Houses.

Services according to the doctrine of the Roman Catholic church were held in the old Georgian school in Castlereagh and Elizabeth streets between King and Market streets. The building is still in existence and until recently was occupied as a girls' high school.

Note 54, page 164.

Hyde Park Barracks.

This building is still (1922) standing on the eastern side of Queen's-square, and is used principally in the administration of justice.

Note 55, page 178.

The present limits of the Colony.

These "limits" were defined in a government order dated 5th September, 1826, as follows:—"The Northern Boundary to be from Cape Hawke in a

Line due West to Wellington Valley. The Western Boundary to be the River Macquarie from Wellington Valley to the 33d Parallel of Latitude; from thence, the Line to be extended to the 148 Degree of East Longitude, and from that Point directly South until it reaches the River Lachlan; thence due East to Campbell's River, pursuing the Line of that River to the Southward, and so on to the Latitude of Bateman Bay, which forms the Southern Boundary."

Included within these boundaries, the following modern counties are situated:—Cumberland, Camden, Argyle, Westmoreland, Cook, Bathurst, Roxburgh, Wellington, Hunter and Northumberland, and parts of Gloucester, Durham, Phillip, Gordon, Ashburnham, Georgiana and St. Vincent.

Note 56, page 180.

The Situation of the two former.

The houses of the chief justice and colonial secretary were built on the southern side of Bridge-street to the east of Pitt-street. The sites are now occupied by the offices of the education and lands departments of the state of New South Wales.

Note 57, page 180.

I should recommend.

This recommendation has been closely followed. Ninety-four years after the date of this despatch, the administrative offices of the state of New South Wales are located in the neighbourhood of Macquarie-place with the exception of those of parliament and the administration of justice.

Note 58, page 182.

One of the most desirable spots.

The residence of the principal superintendent of police was built on the site, now occupied by the general post-office in George-street opposite to Barrack-street.

Note 59, page 191.

The family of the late Mr. Butler.

E. Butler was appointed registrar of the supreme court of Tasmania, but died on the voyage to the colony. When his widow and family arrived at Hobart town, lieut.-governor Arthur provided them with a return passage to England, and reported it in a despatch to Earl Bathurst, dated 27th October, 1824 (*see* pages 203 and 204, volume IV, series III).

Note 60, page 191.

Similar Regulations.

These regulations will be found on page 596, volume XIII.

Note 61, page 194.

Dr. Douglass's Acquittal.

The findings of the board of inquiry on the charges against H. G. Douglass will be found on pages 782 and 783, volume XI.

Note 62, page 196.

This subject.

In the year 1819, Thomas Kent submitted a report to W. Sorell, lieut.-governor in Tasmania, and subsequently to Earl Bathurst, on his researches on wattle bark. In 1820, he was examined on the subject by J. T. Bigge, the commissioner of inquiry (*see* pages 639 and 255 *et seq.*, volume III, series III).

Note 63, page 197.

His Letter to Mr. Huskisson.

A copy of this letter will be found on page 821 *et seq.*, volume XIII.

Note 64, page 198.

Also page 206.

On certain conditions.

Gangs of convicts were employed in clearing private lands on condition that the settler should pay, for each acre so cleared and stumped, five bushels of wheat out of his first crop into the commissariat stores. This system was established by Sir Thomas Brisbane, and met with the almost unanimous approval of landholders.

Note 65, page 198.

The letter.

A copy of this letter will be found on page 109.

Note 66, page 199.

Mr. Ballantyne's proposition.

This proposition will be found on page 555 *et seq.*, volume XIII.

Note 67, page 199.

An Officer.

The officer was Charles Sturt, a captain in the 39th regiment.

Note 68, pages 201 and 514.

A particular Uniform.

The uniform was described in an order, dated 9th November, 1824, and its use was restricted to "the Chief Justice and the other Members of His Majesty's Council" by a despatch, dated 5th March, 1825 (*see* pages 418 and 540, volume XI).

Note 69, pages 201 and 202.

Also page 353.

The New Jail.—The Ground.

This was the southern portion of the walled enclosure, which became known as the Darlinghurst gaol, and is now being altered for the use of a technical school.

Note 70, page 204.

One of the Wings of this Building.

This "wing" is still standing in practically its original condition, and has for many years been used as the mint.

Note 71, page 205.

Also page 466.

The Several Expeditions.

Notes on the principal explorations by John Oxley in the years 1817 and 1818 will be found in volume IX, numbered 85 and 168.

Note 72, page 212.

Those which had been received.

The reports from H. G. Smyth at Fort Wellington and J. Campbell at Melville island will be found on page 816 *et seq.*, volume V, series III.

Note 73, page 215.

The Merchants who pressed for making an Establishment there.

The proposal by merchants, represented on the East India trade committee, for founding a settlement in north Australia, will be found on page 741 *et seq.*, volume V, series III.

Note 74, page 221.

A Book.

This book contained the various returns, which were forwarded in the annual "blue book."

Note 75, page 225.

The Tablet.

The "tablet" was erected in St. James' church, Sydney, in the year 1830. The monument was the work of the artist Chantrey. The centre portion is five feet two inches by four feet two inches, and represents the head of Sir James Brisbane in relief, surmounted by a laurel wreath, and above that a regulation hat and sword. Beneath the bust is an inscription, recording his death on the 19th of December, 1826, at the age of fifty-two years.

Note 76, page 226.

The circumstances.

Thomas McCleland was appointed attorney-general of Tasmania by warrant dated 3rd July, 1826 (*see* page 300, volume V, series III). On his arrival at Hobart town, he was suffering from mental derangement. When the report of his illness was received in England, Algernon Montagu was appointed to succeed him in the event of his continued ill health. But, if McCleland recovered and was able to assume office, Montagu was directed to proceed to Sydney and take office as commissioner of the court of request in New South Wales.

Note 77, page 234.

The Minute of Proceedings.—The accompanying Protest.

The minute of proceedings was transmitted by Sir Thomas Brisbane, chief justice Forbes and archdeacon Scott with their despatch, dated 10th August, 1825, and the "protest" was attached in the appendix marked CC (*see* pages 727 *et seq.* and 780 *et seq.*, volume XI).

Note 78, pages 240 and 241.

Delicacy.—The circumstances under which he was removed.

Lieut.-governor Arthur reported the circumstances relative to the removal of J. T. Gellibrand from office as attorney-general in Tasmania in a despatch, dated 11th February, 1826 (*see* page 104 *et seq.*, volume V, series III).

Note 79, page 251.

The land.

The deed of grant for this land, dated 19th July, 1809, will be found on page 580, and its surrender is recorded in note 133, volume XIII.

Note 80, page 257.

A certain Banking Company.

The bank of New South Wales was established in the year 1817, and was granted a charter of incorporation by Governor Macquarie (*see* page 223 *et seq.*, volume IX). Counsel in England in the year 1818 gave an opinion that this charter was null and void as the governor was not legally empowered either by his commission or instructions to grant it (*see* page 320, volume I, series IV). Notwithstanding this opinion, Sir Thomas Brisbane renewed the charter when it expired in the year 1824. Although these charters of incorporation were granted, the bank was nevertheless, "in contemplation of law, only a joint stock company from the period of its establishment." In the year 1827, the proprietors decided to remodel and continue the bank, and agreed that the charter of incorporation granted by Sir Thomas Brisbane, should cease to be acted upon after the 31st of December, 1827.

The "old bank" was therefore the proprietors trading under a nominal charter of incorporation, and the "new bank" the same proprietors avowedly trading as a joint stock company.

Note 81, page 258.

An Act for ascertaining.

This was the first act for taking a census of the colony. In the early days of the colony, an annual census was taken and was called a general muster. All inhabitants, free or bond, were ordered to attend these musters on a certain date by a proclamation issued by the governor on his own initiative. This practise was continued throughout the administration of Governor Macquarie. But it was no longer possible, when it became generally known that the issue of proclamations and government and general orders by the governor was illegal, and therefore free inhabitants could not be compelled to attend such musters.

Note 82, page 261.

The omission of many topics.

The inclusion of many clauses in the statute, 4 Geo. IV, c. xcvi, which were omitted from the statute, 9 Geo. IV, c. lxxxiii, was due to a sudden

change of policy. The statute, 4 Geo. IV, c. xcvi, was drafted by F. Forbes in association with James Stephen, jr. The circumstances were detailed by F. Forbes as follows:—"The first New South Wales act did contain many specific provisions, without its being known that the draft of that act contained a whole code of laws, which were deemed so complex and unfit for discussion in Parliament, that it was suddenly determined to weave a legislative power into the body of the act; this simple fact, which was only known to Mr. Stephen and myself, will explain the seeming anomaly of the first New South Wales act. In consequence of the resolution thus suddenly adopted, many clauses were retained, which should have been expunged; such, for example, as the clauses relating to Courts of Sessions and Requests, the declaring of insolvencies, foreign attachments, and other matters of purely local moment."

Note 83, page 261.

6 Geo. 4, Cap. 69, Sec. 4.—The General Transportation Act.

Section 4 was as follows:—

"And be it further enacted, That it shall and may be lawful for His Majesty, by any Order or Orders to be by Him from time to time for that Purpose issued with the Advice of His Privy Council, to appoint, or by any such Order or Orders in Council, to authorize the Governors, Lieutenant-Governors, or other Persons for the Time being administering the Government of any of His Majesty's Foreign Possessions, Colonies or Plantations, to appoint the Place or Places within His Majesty's Dominions, to which any Offender, convicted in any such Foreign Possession, Colonies or Plantations, and being under Sentence or Order of Transportation, shall be sent or transported; and all such Persons shall, within the Place or Places, to which, in pursuance of any such Order or Orders in Council, they shall or may be so sent or transported, be subject and liable to all such and the same Laws, Rules and Regulations, as are or shall be in force in any such Place or Places with respect to Convicts transported from Great Britain."

The general transportation act was 5 Geo. IV, c. lxxxiv, entitled, "An Act for the Transportation of Offenders from Great Britain."

Note 84, pages 268 and 273..

The proposal.—The original agreement.

The proposal by F. Forbes was contained in the fourth clause, which he suggested in his draft for the second New South Wales bill (*see* page 649, volume I, series IV).

The agreement for the lease of the coal-mines to the Australian agricultural company was detailed in a letter from under secretary Hay to the directors of the company, dated 7th July, 1825 (*see* page 237, volume XII).

Note 85, page 275.

A document which will be laid before the Members.

The "document" was the despatch numbered 17 (*see* page 260 *et seq.*).

Note 86, page 276.

The Act.

This was the act of council 8 Geo. IV, No. 2 (*see* page 576).

Note 87, page 282.

His conduct to the Archdeacon.

A report on the conduct of William Walker was transmitted by Governor Darling in a despatch, dated 7th May, 1826 (*see* page 273 *et seq.*, volume XII).

Note 88, pages 284, 305 and 383.

The Instructions.

These instructions will be found on page 107 *et seq.*, volume XII.

Note 89, pages 291 and 296.

Also page 312.

A Minute.—My Report.

This minute was contained in the general series of minutes of the executive council for the half-year to the 30th of June, 1828, which will be found in a volume in series II.

The report by J. Oxley was dated 20th September, 1827 (*see* page 303 *et seq.*).

Note 90, page 310.

A joint Memorial.

This memorial will be found on pages 207 and 208.

Note 91, page 328.

The Act of Council No. 20.

This was the act of council, 6 Geo. IV, No. 20, entitled "An Act to continue, until further provision shall be made, certain Duties, Tolls, Rates, Fees, and other sums of money, imposed by the Governors of New South Wales, and for other purposes."

Note 92, page 336.

Articles on the above subject.—Review published in the Australian Quarterly journal.

In the *Sydney Gazette*, five and a half columns, and, in the *Australian Quarterly Magazine*, nineteen and a half pages were filled with the reprint of documents, published in the pamphlet by the Reverend Samuel Marsden (*see* note 46), with comments on them by the editors.

The *Australian Quarterly Magazine*, first published in January, 1828, was edited by the Reverend Charles P. N. Wilton.

Note 93, page 340.

My poor friend, Mr. Galway Mills.

Governor Darling reported the death by suicide of G. G. Mills in a despatch dated 15th February, 1828. The verdict at the inquest was death by bullet wound in the head, self inflicted during a fit of insanity (*see* page 784 and note 184, volume XIII).

Note 94, page 341.

Lieutenant Stirling.

Robert Stirling was a lieutenant in the 3rd regiment and was appointed aide-de-camp by Sir Thomas Brisbane. In the year 1823, he accompanied

John Oxley in his examination of Port Curtis and Moreton bay, and was highly commended for his services. In February, 1828, Governor Darling wrote to the war office and strongly condemned Stirling's conduct (*see* page 799 *et seq.*, volume XIII) for interference in the case of staff surgeon D. MacLeod.

Note 95, page 341.

Your Letter.

This letter was dated 12th January, 1828 (*see* page 695, volume XIII).

Note 96, page 345.

The Regulations.

These regulations were similar to those established for military officers. The concessions were extended to officers of the navy and the marines in December, 1827 (*see* pages 596 and 668, volume XIII).

Note 97, page 347.

Also page 706.

Hooping Cough was introduced.

Prior to the arrival of Governor Phillip with the first fleet in 1788, it is probable that there were no infectious diseases in the continent of Australia or in the island of Tasmania. With the exception of small-pox (*see* note 98), the introduction of every infections disease, major and minor, can be traced to a definite date, and, until recent years, to the ship or ships in which the carriers arrived in the country. After the introduction of a disease, the incidence, and in some diseases the excessive mortality, amongst the aborigines indicates that the disease had been unknown at least for many generations.

Note 98, page 348.

Vaccination.—The Disease has not been known here.

The first vaccine lymph was imported in the ship *Coromandel* on the 8th of May, 1804. On the following day, assistant-surgeon John Savage performed the first successful inoculation. Within the next few weeks, upwards of four hundred children were inoculated in New South Wales by Savage, T. Jamison, principal surgeon, and John Harris, surgeon of the New South Wales corps. Lymph was also sent to Norfolk island and Hobart town. In November, 1805, the vaccine virus was introduced successfully in Tasmania by John McMillan, surgeon of H.M.S. *Buffalo*. The cow-pox was, however, allowed to die out. In January, 1818, it was reintroduced to Tasmania from Mauritius, and a little earlier into New South Wales.

In April, 1789, small-pox became epidemic amongst the aborigines in the neighbourhood of Port Jackson. The origin of this epidemic is unknown, and the excessive mortality, probably fifty per cent., implies that it was a disease previously unknown by the aborigines (*see* also note 118, volume I).

Note 99, page 352.

Despatch No. 78.

This despatch will be found on page 201 *et seq.*

Note 100, page 357.

Absence in the Act of any Preamble specifically stating the mischiefs.—The Newspaper Stamp Act.

The attitude, adopted by F. Forbes in reference to the necessity for a definite expression of opinion by the legislative council of danger to be expected from the licentiousness of the press, was detailed in his despatch to under secretary Horton dated 27th May, 1827 (*see* page 727, volume I, series IV).

The circumstances relative to the passing and suspension of the stamp act were reported by Governor Darling in despatches, dated 29th May, 30th May and 1st June, 1827 (*see* pages 374 *et seq.*, 380 *et seq.*, and 391 *et seq.*, volume XIII).

Note 101, page 358.

The prosecutions and Action for defamation.

Governor Darling reported the prosecutions to under secretary Hay in despatches, dated 5th July and 1st August, 1827 (*see* pages 429 *et seq.* and 477 *et seq.*, volume XIII).

Note 102, page 359.

The proceedings.—The letter.—Your "Government Order."

The proceedings were reported by Governor Darling in his despatch dated 16th January, 1828, and the letter from the judges was dated 31st December, 1827 (*see* pages 717 *et seq.* and 720 *et seq.*, volume XIII).

The "government order" will be found on pages 694 and 695, volume XIII.

Note 103, page 360.

A second Order.

This order will be found on page 646, volume XIII.

Note 104, pages 361 and 768.

The recent alteration of the Law.

By the ninth section of the statute, 9 Geo. IV, c. lxxxiii, it was provided that convicts could be reassigned by their masters, only with the written consent or license of the governor; that the governor could revoke the assignment of a convict at his discretion; and that the governor could grant temporary or partial remissions of the sentences of convicts and could revoke the same at will.

This section was preceded by the section, which provided for the trial of issues by the law courts, and followed by the section, which authorised the governor to extend and apply the form of proceeding by grand and petit juries.

Note 105, page 361.

The conduct of Mr. Justice Stephen.

Governor Darling reported the conduct of J. Stephen in a despatch dated 27th March, 1827 (*see* page 206 *et seq.*, volume XIII).

Note 106, page 361.

The Trial of two Actions.

These trials were reported by Governor Darling in his despatch, dated 10th October, 1827 (*see* pages 547 and 548, volume XIII).

Note 107, page 362.

The discussion.

Reports on this discussion will be found on pages 802 *et seq.* and 815 *et seq.*, volume XIII.

Note 108, page 363.

His conduct.

Governor Darling reported the conduct of F. Stephen in a despatch, dated 19th January, 1827 (*see* page 727 *et seq.*, volume XIII).

Note 109, page 363.

The Public Dinner of the Turf Club.

An account of this dinner was given by Governor Darling in his despatch dated 14th December, 1827 (*see* page 642 *et seq.*, volume XIII).

Note 110, page 364.

The letters.

These letters will be found on pages 639 *et seq.*, 645 and 707 *et seq.*, and the explanation tendered by W. Foster on page 711, volume XIII.

Note 111, pages 366 and 716.

Your general Instructions.

In the general instructions to Governor Darling, it was provided:—"You do in all things consult and advise with Our said Council, and that you do not exercise the powers and authorities aforesaid, or any of them, except by and with the concurrence and advice of Our said Council, save and except only in such cases as are hereinafter saved and excepted" (*see* page 109, volume XII).

Note 112, page 366.

A relative or a near connection.

Henry, William and Edward Dumaresq were brothers-in-law of Governor Darling. The first was appointed by Darling to be clerk of the executive and legislative councils in February and March, 1826; the second to various offices, beginning with the inspectorship of roads and bridges in May, 1826; and the third to be successor of G. W. Evans, as surveyor-general in Tasmania in December, 1825.

Note 113, pages 370 and 542.

The Committee.

The committee of the Australian agricultural company included John Macarthur, James Macarthur, James Bowman, Hannibal Macarthur and Phillip Parker King.

Note 114, page 370.

The Instructions.

These instructions will be found on pages 563 *et seq.* and 591 *et seq.*, volume XI.

Note 115, page 371.

The Despatch.

This despatch will be found on pages 486 and 487, volume XIII.

Note 116, page 375.

That which they have hitherto received.

A copy of the memorandum given to intending settlers will be found on page 454 *et seq.*, volume XI.

Note 117, page 379.

To advert to Mr. Forbes's proceedings.—In adding the Judge's private Clerk.

The particulars of the action taken by F. Forbes on the stamp act will be found on pages 289 *et seq.* and 374 *et seq.*, volume XIII. The appointment of J. Dowling's clerk as a clerk in the supreme court was reported by Governor Darling in his despatch, dated 3rd April, 1828 (*see* page 115).

Note 118, page 393.

Also pages 585 and 600.

My Pew in the Church.

E. S. Hall was the holder of a pew in St. James' church. In the year 1828, the pews were fitted with doors and divided from adjoining pews by partitions, four feet eight inches in height. Rent was paid for the pews for each half-year, ending June and December. At evening service on the 1st (6th) of July, 1828, when he attempted to enter the pew, Hall found the door closed; whereupon he went to the side, climbed into the pew, lifted his youngest daughters in, and forced the door open to allow his eldest daughters to enter. To prevent further use of the pew by Hall, the pew was then decked over.

On the 25th of September following, a suit for trespass was commenced against Hall in the supreme court. In his evidence, the Reverend Richard Hill, the incumbent of St. James', stated that a reallotment of the pews had been made at the beginning of the half-year, which was the reason of Hall's exclusion. Public opinion, however, thought it was due to archdeacon Scott's animosity towards Hall. J. Dowling and the assessors returned a special verdict.

On the 12th of March, 1829, this suit was concluded, and damages of one shilling were given against Hall. Subsequently a motion for a new trial was refused.

On the 29th of September, 1828, Hall was found guilty of a criminal libel (*see* note 153) in his comments on the ecclesiastical administration in connection with the allocation of these pews.

On the 6th of April, 1830, Hall was successful in an action against the Revd. T. H. Scott, tried before a jury, and obtained £25 damages for trespass in connection with the previous suits.

Note 119, page 393.

Occurrences in that Country.

Thomas Hobbes Scott was born in the year 1783. According to James Mudie in *The Felonry of New South Wales*, his first occupation was that of a wine merchant in the city of London. He was thirty years of age before he matriculated at Oxford university on the 11th of October, 1813, where he obtained the degree of M.A. five years later.

Note 120, page 394.

The Archdeacon's noble sister.

The eldest sister of the Revd. T. H. Scott married Thomas H. Bigge, and a second sister the earl of Oxford.

Note 121, page 396.

Per cutter Mermaid and ship Wanstead.

This despatch and those numbered 119, 120, 121 and 122 were transmitted to Hobart town by the cutter *Mermaid* and thence to England by the ship *Wanstead*.

Note 122, page 406.

Mrs. Lockaye's Letter.

The full text of this letter was transmitted by Sir George Murray with his despatch, dated 1st May, 1829 (*see* page 731 *et seq.*).

Note 123, page 409.

The past life of Dr. Halloran.

Particulars of L. H. Halloran's crime and conviction will be found on page 37, volume XII.

Note 124, page 410.

Representations from the East India Trade Committee.

These representations will be found on page 742 *et seq.*, volume V, series III.

Note 125, page 418.

Bradley had transmitted statements.—A despatch.

The "statements" and despatch will be found on pages 463 *et seq.* and 462, volume XI.

Note 126, page 426.

A very careful examination.

The report on this examination will be found on page 854 *et seq.*, volume XI.

Note 127, page 433.

Your letter of the 7th October, 1828.

This letter will be found on pages 436 and 437.

Note 128, page 434.

Also pages 442 and 500.

The Sydney Gazette of today.

A leader of one and a quarter columns in the *Sydney Gazette* was devoted to comments on the reported reply of F. Forbes to the pamphlet (*see* note 46) written by the Reverend Samuel Marsden. The criticism was strongly in favour of Marsden, and it was stated "we might have been obliged with a glance at this Answer (*i.e.*, the reply by F. Forbes) on condition that we made no use of it."

Note 129, pages 437 and 441.

The Report.

This report will be found on page 854 *et seq.*, volume XI.

Note 130, page 462.

His Lordship's Despatch.

This despatch was numbered 37 (*see* page 462, volume XIII).

Note 131, page 466.

Mr. George Harper complaining of certain injuries.

The subject-matter of the complaints was contained in Governor Darling's reply to this despatch (*see* page 752 *et seq.*).

Note 132, page 471.

Also page 668.

His second Expedition.

On his first expedition, Allan Cunningham had discovered the Darling downs on the 5th of June, 1827 (*see* note 140, volume XIII), and had observed a gap in the main coastal range. His second expedition was undertaken with the object of discovering a route from Moreton bay to these downs through this or a similar gap.

On the 24th of July, 1828, Cunningham left Brisbane town. He was accompanied by Patrick Logan, commandant at Moreton bay, James Fraser, and five men, with provisions for four weeks loaded on four pack bullocks. The route was at first southerly, and, on the following day, the Logan river was crossed about twenty miles from its mouth. A south-westerly course was then taken, and, on the 2nd of August, camp was pitched at the foot of Mount Lindesay. On the following day, Cunningham, Logan and Fraser attempted the ascent of this mountain, but Logan only was successful in reaching the summit, which was estimated to be 5,703 ft. above sea-level. On the 7th of August, the latitude of the gap, observed in June, 1827, was reached; but progress in a westerly direction was found to be impracticable. On the following day, it was decided to travel northerly to the Bremer river, and to make an attempt to reach the ranges from that river. On the 11th of August, when twenty-four miles from Brisbane town, Logan and Fraser left Cunningham to return to that town. On the same day, Cunningham reached the Bremer river at a point forty-eight miles from Brisbane town. Here Cunningham rested some days, and sent two men and two bullocks back to the settlement. On the 18th of August, accompanied by three men with two bullocks, he started in a southerly and westerly direction for the gap, and three days later arrived within four miles of it. He felt some doubt whether this was the gap observed from the west in June, 1827, and spent some time in searching for another gap. However, on the 24th of August, one of his men, who had accompanied him on his previous expedition, partly ascended the gap and proved its identity. On the following day, Cunningham with one man passed through the gap, and proved the practicability of a road up the range to the Darling downs at a point fifty-four miles distant from Brisbane town. On the 26th, the return journey was commenced, and the Bremer river was reached in safety four days later. The gap is now known as Cunningham's gap.

Note 133, page 471.

The Expedition.

A note on this expedition will be found, numbered 168, in volume IX.

Note 134, page 472.

Also page 724.

An Excursion to the Southward.

This was the exploring expedition of Hamilton Hume and W. H. Hovell in the year 1824, when the overland route to Port Phillip was discovered (*see* note 131, volume XI). For many years, it was a disputed point between Hume and Hovell whether the one or the other was the leader, a controversy which involved considerable correspondence in the newspapers without any definite result, except in proving that Hume was the more experienced bushman.

Note 135, page 474.

The printed pamphlet.

This was an octavo pamphlet of one hundred and eight pages, printed by A. Hill at Sydney in 1828, in which the history of the first years of the Presbyterian church in New South Wales was detailed.

Note 136, page 475.

An Article appeared in the "Sydney Monitor."

The appointments conferred by Governor Darling on his brothers-in-law (*see* note 112) gave his opponents great opportunities for criticism. In the year 1828, he gave H. Dumaresq, one of his brothers-in-law and at the time clerk of the executive council, a grant of one hundred and eighty acres of land (*see* page 478). Such a grant was obviously impolitic, no matter how justifiable the circumstances involved.

Note 137, page 476.

An equivalent for some Land.

The particulars relating to the reserve of ten thousand acres of land for F. Forbes, to be exchanged for land held by his mother in the island of Bermuda, will be found on pages 251 *et seq.* and 269, volume XIII.

Note 138, page 482.

A Daughter of one of the Judges.

R. Robison was married to a daughter of John Stephen.

Note 139, page 495.

Copy of the Rules.—A Memorandum.

The rules will be found on page 454 *et seq.*, volume XI, and the principles of the memorandum on pages 595 and 596, volume XII.

Note 140, page 498.

The Official Regulation.

These regulations were enclosed with Governor Darling's despatch dated 27th October, 1827, and will be found in a volume in series II.

Note 141, page 505.

A former Despatch.

This despatch was dated 30th January, 1828 (*see* page 743 *et seq.*, volume XIII).

Note 142, page 519.

The abolition of the Office of Lieutenant-Governor.

The office of lieutenant-governor of New South Wales was created in the year 1786 before the first fleet sailed from England. The duties of the office were never defined, and the office was a sinecure except in the absence of the governor. After the departure of Robert Ross, major of marines, the office was invariably held by a military officer, although, in the year 1799, P. G. King advised the appointment of a civilian. After his inquiry, J. T. Bigge reported, in February, 1823, that the office was useless (*see* page 881, volume I, series IV). The office was abolished by Earl Bathurst in a despatch, dated 8th April, 1827 (*see* page 242, volume XIII).

Note 143, page 519.

Your Commission and standing Instructions.

These documents will be found on page 99 *et seq.*, volume XII.

Note 144, page 523.

The recently established Regulations.

These regulations will be found on page 595, volume XII, and on pages 485 and 596, volume XIII.

Note 145, page 528.

My suspension.

Governor Darling reported the suspension of H. Dangar in a despatch dated 11th March, 1827 (*see* page 149 *et seq.*, volume XIII).

Note 146, page 529.

His public order.

This order was as follows:—

"GOVERNMENT PUBLIC NOTICE.

"Colonial Secretary's Office, 10 Nov., 1825.

"Whereas various Grants of Land have been made in New South Wales and its Dependencies on Condition not to be alienated within Five Years from the Date thereof; And Whereas such Condition was imposed in Order to ensure the due Cultivation of the said Land; but generally this Object has been effected, although that Condition has not been strictly observed. Now therefore, in all Cases in which Fences, Clearing or Buildings shall have been completed according to the Condition in the said respective Grants contained, I do hereby release all the Rights, which have accrued to His Majesty, His Heirs and Successors, to the same Lands in Respect of any Breach of the aforesaid Condition before the Announcement of His Majesty's new Regulations on the 18th Day of May last.

"By His Excellency's Command,

"F. GOULBURN, Colonial Secretary."

Note 147, page 529.

The Agent to T. P. McQueen, M.P.

The agent was Peter McIntyre.

Note 148, page 547.

Described in the Report of the Surveyor-General and the Company's Agent.

This description will be found on page 370.

Note 149, page 551.

A Second Bank.

The bank of New South Wales commenced business on the 8th of April, 1817. Its formation was "productive of the most important and beneficial consequences to the Colony at large, which was thus rescued from the state of Bankruptcy into which it was declining fast; its credit raised at Foreign ports; and an incalculable accommodation rendered to every Individual in the Country" (*see* despatch from Governor Macquarie, dated 27th July, 1822, page 676, volume X). The bank was established under the patronage of Governor Macquarie, and its principal supporters were his *protégés*, the emancipists and their friends.

In February, 1826, a private meeting was held by some members of the exclusive party to consider the formation of a second bank. This bank was called the bank of Australia. The proprietors were restricted, as the share list was not open to public subscription. The bank was opened for business on the 1st of July, 1826 (*see* also note 75, volume XII).

Note 150, page 559.

The old Bank.

The "old Bank" was the bank of New South Wales, when it was nominally working under the charter of incorporation, granted by Governor Macquarie and renewed by Sir Thomas Brisbane (*see* also note 80).

Note 151, page 564.

The Reverend F. Wilkinson's Letter.

Governor Darling wrote a despatch on this letter to under secretary Hay, dated 4th September, 1828 (*see* page 386 *et seq.*).

Note 152, page 576.

This Act having never been permitted to go into operation.

The operation of the stamp act was suspended by a government notice, dated 31st May, 1827 (*see* page 392, volume XIII).

Note 153, page 578.

E. S. Hall . . . of a Libel.

On the 29th of September, 1828, E. S. Hall was tried in the criminal court before J. Dowling on a charge of criminal libel on the Reverend T. H. Scott. The libel was contained in the *Monitor* newspaper, wherein comments were made on the ecclesiastical administration. Hall was found guilty and entered into recognizances to appear for judgment when called upon. On the 6th of January, 1829, Hall was called to receive the judgment. Dowling, after stating that Scott did not press for a severe penalty, sentenced Hall to pay a fine of twenty shillings, and to enter into a personal recognizance of £500 to be of good behaviour for twelve months, and to be lodged in gaol until the fine was paid and the recognizance completed.

Note 154, page 579.

One . . . under the signature of "Veritas."

The letter by "Veritas" filled three columns in the *Sydney Gazette*, and was addressed to the editor of the *Monitor* newspaper. It was devoted to a denial of the statements by E. S. Hall in his letters, dated 3rd and 26th November, 1828 (*see* pages 584 *et seq.* and 596 *et seq.*), principally in reference to the emoluments of H. Dumaresq and others, and to the land grants at Woolloomooloo and Elizabeth bay.

Note 155, page 581.

The control of three or four Gentlemen.

Governor Darling reported the appointment of a land board in his despatch dated 5th May, 1826 (*see* page 266, volume XII). This board consisted of W. Stewart, the lieut.-governor, W. Lithgow, the auditor, and J. T. Campbell, formerly secretary to Governor Macquarie. This board dealt with applications for land and for assigned servants. Alexander Macleay and Henry Dumaresq, the official and private secretaries, were not members of this board, but of the board for general purposes; nor was William Dumaresq a member.

Note 156, page 583.

The Government Notice.

After reciting the necessity for regulating the depasturing of stock on government lands, it was announced:—

"Notice is hereby given that Settlers in authorised Possession of Land, whether by Grant or by Purchase, will be allowed to occupy the unlocated Crown Lands *immediately adjoining* their respective Possessions at a Rent after the Rate of Two Shillings and Sixpence per Annum for every Hundred Acres; but it is clearly to be understood that Government reserves to itself the Right of disposing of all Lands, which shall be occupied under this Tenure, and to give Possession of it to any other Party, upon giving One Month's Notice to the Occupant."

The only condition imposed was that applications to lease such lands must be made in writing to the colonial secretary.

Note 157, page 585.

Discharge the verdict by public subscription.

On the 15th of December, 1826, Hannibal Macarthur was awarded £100 damages and costs in a lawsuit against Arthur Hill and Edward Smith Hall, the proprietors of the *Monitor* newspaper. The action was brought for a libel published in the issue of that paper on the 22nd of September, 1826. The libel was contained in some criticism on the flogging of a convict employed on Macarthur's farm. The damages and costs were paid by public subscription.

Note 158, page 588.

A Gentleman . . . selected . . . to supersede in office another Gentleman.

The reference was to William Foster, who was appointed commissioner of the court of requests, when H. G. Douglass was removed from that office in December, 1827, for proposing the health of W. C. Wentworth at a dinner of the turf club, held on the 9th of November, 1827 (*see* also pages 678 and 706 *et seq.*, volume XIII).

Note 159, page 588.

The cock-pit.

Cock-fighting was a frequent and popular form of amusement in New South Wales during the first half of the nineteenth century. One large residence near the Parramatta river had a well-appointed private cock-pit. The amusement became regulated, and the rules of the national cock-pit at Westminster, London, were adopted. Mains were arranged; the *long main* continued usually for a week, and the *short main* for a day or two. The amusement was the medium of much gambling.

Note 160, page 589.

A pension.

Alexander Macleay was appointed secretary to the transport board in the year 1806. When the board was abolished in the year 1818, he was granted a pension of £750 *per annum*. On his appointment as colonial secretary of New South Wales, he was precluded from drawing this pension. But Governor Darling was instructed to pay him an allowance of £750 *per annum*, in lieu of the pension and in addition to his salary as colonial secretary.

Note 161, page 589.

3,000 acres in the Cow pastures.

Alexander Macleay was granted fifteen hundred acres at Brownlow hill, near Camden (*see* pages 389 and 390).

Note 162, page 592.

Old Crown leases.—Sydney would have still remained a mere hamlet.

Before leaving the colony, Governor Phillip had caused a map of the town of Sydney to be prepared. At the same time, a line was traced from the mouth of the stream, flowing into Woolloomooloo bay, to the head of Darling harbour, and this line was regarded as the boundary of the town on its landward side. Phillip laid down the principle "that no Ground, within the Boundary line, is ever granted or let on Lease, and all houses within the Bonndary line are and are to remain the property of the Crown." This principle forbidding leases was not followed, and Phillip himself and his successors granted leases of allotments for terms of years (*see* also note 38, volume VI). No grants, however, were made until November, 1808. On the 21st of this month, major Foveaux converted the leases of Isaac Nichols, Simeon Lord and David Bevan into grants in consideration of the "very large sums of money" expended "in the erection of excellent dwelling-houses, extensive Stores, and other substantial and useful buildings" (*see* page 4, volume VII). The first and last of these grants were in George-street, and the second in Pitt-street. On the 11th of November, 1808, Foveaux granted some land in Wind Mill Row to John Macarthur in exchange for land at Parramatta (*see* note 180, volume VI). Governor Macquarie confirmed these grants and freehold thus became a legally established tenure for land in the city of Sydney. Notwithstanding this new practise, for many years the greater part of Sydney was held under Crown leases; such holdings were frequently sold, as few lessees expected that the government would re-enter into possession.

Note 163, page 595.

1,280 acres of land to a lady.

Governor Darling advocated a proposal for land grants to women as marriage portions in a despatch, dated 4th September, 1828 (*see* page 385).

Note 164, page 596.

One of the Coves.

The native village formed at this cove by Governor Macquarie was called Elizabeth town in honour of Mrs. Macquarie. The cove in consequence acquired the name of Elizabeth bay.

Note 165, page 596.

The author of a periodical.

The South Asian Register was an ambitious octavo magazine, edited by Dr. Oldfield, and first published in the year 1827.

Note 166, page 597.

Possession by promise.

Sir Thomas Brisbane made a report on this practise in a despatch dated 10th April, 1822 (*see* page 630 and note 136, volume X).

Note 167, page 597.

A Lunatic Asylum.

In May, 1811, Governor Macquarie established the first lunatic asylum at Castle hill, and a little later the old government barn was repaired and allotted for that purpose at that station. Accommodation was provided for thirty patients, with a courtyard for exercise surrounded by a strong stockade. A weatherboarded cottage was erected for the superintendent and his family. The first resident superintendent was George Suttor, who received special instructions from Governor Macquarie in September, 1814. This asylum was maintained until the year 1828, when the lands occupied were required for the clergy and school estates. The building, used by the bench of magistrates at Liverpool, was thereupon converted into an asylum, and the patients, numbering thirty-two men and twelve women, were transferred from Castle hill.

Note 168, page 599.

Private Road, Woolloomooloo Hill.

This road, at first known as Wolomoloo-road, is now known as Darlinghurst-road. It was constructed at the expense of the owners of the allotments on the heights of the modern Darlinghurst and Potts point.

Note 169, page 601.

The wing of the General Hospital.

This wing is still standing and forms the central portion of the present state parliament house. The chambers, now used by the legislative council and the legislative assembly, are later additions.

Note 170, page 603.

The Islands of New Zealand were a Dependency.

In the commissions of all the governors of New South Wales from A. Phillip to Sir T. Brisbane, their jurisdiction was defined as extending from the latitude of Cape York in the north to the latitude of South cape in Tasmania in the south, "including all the islands adjacent in the Pacific Ocean"

within these latitudes without defining the eastern limits of such islands. Governor Darling held a similar jurisdiction with the southern limit restricted to the latitude of Wilson's promontory in Victoria.

The whole of the north island and part of the south island of New Zealand lie between the latitudes of South cape in Tasmania and of Cape York in Queensland.

The jurisdiction over the "islands adjacent" was variously interpreted. In the years 1811 and 1814, Governor Macquarie claimed jurisdiction over Tahiti and New Zealand by the appointment of justices of the peace with local powers. The appointment of Thomas Kendall as a justice of the peace "at the Bay of Islands and throughout the Island of New Zealand" in 1814 (*see* page 112, volume 1, series IV), probably suggested to the colonists that New Zealand was a depeudency.

But, prior to the year 1829, no official decision on the question involved was given by the secretary of state.

Note 171, page 604.

Copies of my correspondence.

In the original copy of this despatch, preserved in the Mitchell library, Sydney, the following sub-enclosures were attached to this letter:—

[1] Mr. Thomas Raine to Mr. F. N. Rossi.

Sir, Sydney, 10 December, 1828.

I beg leave to report to you the arrival in Port Jackson on the 9th Instant of the Brigantine "New Zealander" from Ho'Kianga in New Zealand, at which place I have an Establishment, and where the said vessel has been built by British Subjects, employed by me for that purpose; and I have respectfully to request you will be pleased to order the proper Officers on board to survey and measure her for the purpose of enabling me to obtain a Register according to law, as speedily as possible. I have, &c.,

A True Copy:—Thomas Raine. Thomas Raine.

[2] Mr. F. N. Rossi to Mr. T. Raine.

Sir, Custom House, Sydney, 30th Decem'r, 1828.

Having submitted to the Government your demand for a Register of the Vessel, the "New Zealander," built by persons in your Employ at Ho'Kianga in New Zealand, I have the honor of transmitting for your information Copy of the Letter of the Colonial Secretary to me on the Subject, and beg to add that a Clearance, or a Certificate agreeably to my instructions, shall be granted, as soon as you have been pleased to comply with the terms mentioned in the last Paragraph of that letter.

I am, &c.,

F. Rossi, Acting Collector.

[3] Colonial Secretary Macleay to Mr. F. N. Rossi.

Sir, Colonial Secretary's Office, 29th December, 1828.

Having by Command of the Governor referred your letter of the 12th Inst., enclosing an application made by Mr. Thomas Raine for a Register of the "New Zealander," built at Ho'Kianga, New Zealand, to the Attorney and Solicitor General, I am directed to inform you that, according to the Opinion of these Officers, no Register can be legally granted at this Port to the Vessel in question under the Act of 6 Geo. 4, Cap. 110; but his Excellency sees no objection to your clearing out the "New Zealander" for New Zealand, and giving him a Certificate, stating that She was built there by British Subjects in the Actual Employment of persons resident in this

Colony; and that there is no objection on the part of the Government of New South Wales to her trading betweeu this place and New Zealand, until the pleasure of His Majesty's Goverument can be obtained respecting an application made for a British Register for her; you are not, however, to give the Certificate, untill Mr. Raiue shall have given you a letter, agreeiug to accept of such Certificate upon his own responsibility, and not to cousider the Colonial Government answerable for the protectiou of the Vessel.

ALEXR. MCLEAY.

A true Copy:—F. ROSSI, Act'g Coll'r.

[4] MR. T. RAINE TO MR. F. N. ROSSI.

Sir, Bligh Street, 30 Decr., 1828.

I have to acknowledge receipt of your's of this date, handing me Copy of the Colonial Secretary's letter on the subject of a Register for my Vessel, the "New Zealander"; and I beg to say that I comply with the conditions of taking the Certificate, statiug "that she was built at New Zealand by British subjects in the actual Employment of persons, resideut in this Colony, and that there is no objection on the part of the Governmeut of New South Wales to her trading between this place and New Zealand, untill the pleasure of His Majesty's Governmeut can be obtained, respecting au application made for a "British Register for her," vizt., that I accept such Certificate upon my own responsibility, aud do not consider the Colonial Governmeut auswerable for the protection of the Vessel. I have, &c.,

THOMAS RAINE.

A True Copy:—THOMAS RAINE.

Note 172, page 607.

Also page 721.

The Copy of a Report.

This expedition was undertaken to trace the course of the Macquarie river and to test the theory of an inland sea (*see* also note 201). Charles Sturt left the settlement at Welliugton valley on the 8th of December, 1828. He was accompanied by H. Hume, two soldiers named Hopkinson and Fraser, and eight couvicts. He was provided with two riding and seven pack horses, eight pack bullocks, and a boat on a carriage drawn by two draught bullocks. Two more men with two horses accompanied him as far as Mount Harris to return with a despatch. This despatch was dated 25th December, 1828, and enclosed Sturt's journal to the 20th of December, wheu he arrived at Mount Harris (*see* volume in series V). The journal recorded an uneventful journey along the Macquarie river, and noted the prevalence of a drought and the discovery of traces of J. Oxley's visit to Mount Harris in the year 1818. After their arrival at Mount Harris, many days were spent by Sturt and Hume in excursions from the camp with the object of tracing the Macquarie river. As a result, Sturt reported that "at a distance of about twenty-five Miles from Mount Foster, the river Macquarie ceases to exist in any Shape as a River, and, at a distance of between fifty and sixty, the Marshes terminate." Sturt thereupon proceeded to examine the country in a north-westerly direction. Iu the month of January, 1829, he discovered the Bogan river, and, on the 2nd of February, discovered the Darling river and followed its course for several days. He then retraced his steps to the camp at Mount Harris, which was reached on the 23rd of February. On the 7th of March, he again left Mount Harris, and in three days reached the Castlereagh river, which he followed to its junction with the Darliug river. From this expedition, he returned to Mount Harris on the 7th of April, and thence to the settlemeut at Wellington valley on the 16th.

Note 173, page 610.

Relinquish all idea of colonizing.—Circumstances.

In January, 1828, the foundation of a settlement at Swan river, West Australia, was considered inadvisable on account of the distance of the locality from Sydney and of the difficulties of maintaining communication (*see* page 739, volume XIII).

The settlement at Swan river was formed by free immigrants, and no convicts were transported under James Stirling who was the first commandant. The instructions to Stirling were dated 30th December, 1828, and liberal land grants were promised to any immigrant. As the locality was without any recognised British jurisdiction, Stirling was ordered to administer the government in an equitable manner, until such time as full instructions on administrative, judicial and legislative matters could be transmitted to him.

Note 174, page 617.

Also pages 801, 802 and 863.

Brought under the consideration of Parliament.

On the 24th of June, 1828, Stewart gave notice in the house of commons that, on the 8th of July, he would move for the production of (1) the record of conviction, (2) a copy of the general order, dated 22nd November, 1826, and (3) copies of all correspondence from Governor Darling, in the case of J. Sudds and P. Thompson. In consequence, the despatches, dated 4th and 12th of December, 1826, with their enclosures (*see* pages 716 *et seq.* and 741 *et seq.*, volume XII), were laid on the table of the house and ordered to be printed, and at the same time it was stated that the record of conviction had not been received from Governor Darling (*see* page 617).

Note 175, page 618.

Similar circumstances to those of Sudds and Thompson.

Joseph Sudds and Patrick Thompson were convicted (*see* page 617) of a petty robbery in the town of Sydney, "committed in open day and without even an attempt to conceal the Fact." Their avowed object was to escape military service, as they considered that the condition of a convict was better than that of a private in the Colony.

Note 176, page 619.

Also page 858.

Discussed in the Australian and Monitor.—Your attention.

In the issue of the *Australian* newspaper, dated 16th January, 1829, two and three-quarter columns contained a criticism, paragraph by paragraph, of Governor Darling's despatch dated 4th December, 1826, which was laid on the table of the house of commons (*see* note 174). In the issue dated 20th January, the enclosures to the same despatch were criticised in nearly three columns. In the issue dated 27th January, more than three columns contained a statement of "the consequences of the punishment to Sudds, and more particularly the defence which is rested upon the Report made by the Council." This report was an enclosure to the second despatch laid on the table of the house of commons (*see* note 174).

In the issue of the *Monitor* newspaper dated 19th January, 1829, a criticism of these two despatches and their enclosures was printed, extending to nearly seventeen columns.

In the issue of the *Australian* newspaper dated 27th January, 1829, reference was made to the discussion on the statute, 9 Geo. IV, c. lxxxiii, relating to the freedom of the press (*see* page 590).

Note 177, page 619.

Also page 620.

The same situation as Sir Thomas Brisbane.

In August, 1825, Sir Thomas Brisbane appointed three commissioners to inquire into a report of the alleged prostitution of female convicts at the government establishment at Emu plains (*see* page 814 *et seq.*, volume XI). Sir Thomas Brisbane took this action without any instructions from Earl Bathurst. Reference was made to this commission in the *Australian* newspaper dated 27th January, 1829.

Note 178, page 620.

The Minute of Council.

The statement made by James MacIntyre to the executive council and the opinion of the council in reference to it will be found on pages 745 *et seq.* and 749, volume XII.

Note 179, page 621.

Enclose the Gazette of the 22nd inst.—A Paragraph.

The *Gazette* of the 22nd January, 1829, contained three columns of criticism on the discussion in the house of commons in reference to the case of J. Sudds and P. Thompson. The criticism practically contradicted the remarks which were made in the *Australian* newspaper.

The paragraph was as follows:—

"We perfectly coincide with the remarks of our Correspondent *Joe Blunt*. The subject to which he alludes is indeed become as nauseous as an emetic. After the plain statement of facts which we have already laid before the Public in answer to the romances that have lately issued from the Press, little remains to be said, or indeed need be said, on the subject of Sudds and Thompson. There is one thing, however, which we think worthy of remark in this place, before closing the discussion altogether. It is asserted, in the last *Australian*, that a charge was made against the GOVERNOR, and that he was to be considered in the light of a defendant before the Council. This we deny. A clamour was raised, the public mind was agitated, on the death of the unfortunate man Sudds; agitated, too, by the very newspaper which had previously lauded the measures of His Excellency, and declared that a public example was necessary to be made of the two culprits. Blame was attached somewhere, and to discover where it was justly attributable, if attributable anywhere, was the motive of His Excellency in convening the Council; certainly a very extraordinary act for a defendant, and strong evidence of *apprehension* in this particular case, seeing that the Council could not have met at all, had they not been called together by His Excellency. But 'a *charge* was made against the Governor'! A charge! Pho.! Charge indeed! By whom? By the *Australian* newspaper. Of what was His Excellency accused, pray? Why, of resorting to those very measures which were pointed out by the accuser himself, as the best means, should any other soldier have fallen in love with the life of a Prisoner 'to teach him his mistake before he goes past redemption like these two soldiers'! What an unlucky quotation this is! How it must grate on the ears of certain parties, particularly when coupled with the fact that the highest law Authority in the Colony was one of that very Council, by whom all the circumstances of this case were inquired into, and by whom that report, which we published a short time since, was made! The attempt, also, to assimilate the meeting of the Council in this instance to the Court of Enquiry, alluded to, in the time of

Sir THOMAS BRISBANE, is almost too puerile to demand a serious answer. There, a direct and positive charge was made from Home against the then GOVERNOR. Here, there was nothing in the shape of a charge, if we except the scurrilous imputations of a factious press; so that the comparison wholly fails; there is no keeping whatsoever between the two cases. We may, probably, make a few remarks in our next on the last article in the *Australian*, and, if so, we shall drop the curtain."

Note 180, page 622.

The Act of Parliament has so completely defined the duties.

Sections 20 to 31 of the statute 9 Geo. IV, c. lxxxiii, related to the legislative council. Section 20 provided for the appointment of the council, and section 21 for its proceedings. Section 22 enacted that all laws and ordinances should be transmitted to the supreme court to be there enrolled; section 23, that the Governor should preside at sittings of the council; section 24, that the laws of England should be applied in the administration of justice; section 25, that governors and councils should not impose taxes except for local purposes; section 26, that the statutes, 59 Geo. III, c. cxiv, and 3 Geo. IV, c. xcvi, allowing certain powers of taxation to the governor, should be perpetual; section 27, that the powers vested in governors by former acts should continue, and that the produce of duties should be applied as the governor might appoint by any law or ordinance; section 28, that laws and ordinances should be transmitted to the secretary of state; section 29, that laws and ordinances should be laid before parliament; section 30, that members of the council should be justices of the peace and should take a prescribed oath; and section 31, that the governors should fill vacancies in case of the death or resignation of members of the council.

Note 181, page 627.

The representations which I have had the honor to make.

These representations were contained in despatches dated 27th May and 29th August, 1828 (*see* pages 202 and 353 *et seq.*).

Note 182, pages 638, 639 and 641.

Instructions.

These instructions will be found on page 117 *et seq.*, volume XII.

Note 183, page 642.

The arrangement . . . Women must . . . be permitted to reside there.

The arrangement was the appointment of J. T. Morisset to the command at Norfolk island. Governor Darling had protested against this appointment in despatches, dated 15th February and 27th October, 1827. He reported the exclusion of women from the island in a despatch, dated 10th February, 1827 (*see* pages 112, 566 and 105, volume XIII).

Note 184, page 673.

I am directed, etc.

The conclusion of this letter was in the usual form, of which an example will be found on page 638.

Note 185, page 674.

The Government House . . . having been . . . uninhabited.

Sir Thomas Brisbane, Governor Darling's predecessor, resided at the government house, which now forms part of the King's school at Parramatta. He visited Sydney weekly to transact public business.

Note 186, page 678.

The usual printed application.

The form of this application was printed, and was similar to the application to rent land on page 781, subject to the necessary alterations.

Note 187, pages 679 and 681.

General rules.—Sydney Gazette.

These rules were published in the issue of the *Sydney Gazette*, dated 28th March, 1829.

Note 188, page 683.

Absolute pardon.

Daniel Cubitt and thirteen other convicts received a warrant of conditional emancipation, dated 16th December, 1791, for their services at the wreck of the ship *Guardian* (*see* page 325, volume I).

Note 189, page 690.

No legislative proceedings.

The statute, 9 Geo. IV, c. lxxxiii, was passed in July, 1828, and was transmitted by Sir George Murray with his despatch of the 31st of that month. By this statute, a new legislative council was created with new methods of procedure, and the functions of the old legislative council ceased on the expiration of the statute 4 Geo. IV, c. xevi, under which it was constituted. The warrant for the new council was dated 30th January, 1829 (*see* pages 623 and 624).

Note 190, pages 690 and 713.

Charges against me or an "Impeachment."

This impeachment was transmitted by Governor Darling with his despatch dated 28th May, 1829 (*see* page 793 *et seq.*).

Note 191, page 692.

The Report of a Trial.

This trial was a prosecution of Robert Howe for a libel in the issue of the *Sydney Gazette*, dated 7th May, 1828. The libel was contained in an anonymous letter, which caustically commented on the expected departure of H. G. Douglass from the colony. Douglass obtained a verdict with damages of £50. The trial lasted from 11 a.m. to 7.30 p.m., and created great public interest.

Note 192, page 699.

Any view to colonization in New Holland.

The fear of a foreign nation forming a settlement in Australia prevailed from the early years of the colony. It was the direct cause of the first settlement in Tasmania, an indirect cause of the settlements in north Australia,

and was expressed in the secret instructions for the formation of the settlements at Western port in Victoria, and King George's sound in West Australia (*see* volumes I, V and VI in series III).

Note 193, page 704.

The despatches.

These despatches were dated 31st May and 1st November, 1828 (*see* pages 214 and 410).

Note 194, page 705.

The undertaking.

This was the supply of water to Sydney from the Botany swamps by means of a bore, which had its outlet in Hyde park, south of Park-street (*see* page 362 *et seq.*, volume XIII).

Note 195, page 710.

The Wreck of the ship "Sydney."

The ship *Sydney* was chartered by Governor King to procure a cargo of provisions for the colony. She cleared for Calcutta on the 14th of April, 1806, and, during the outward voyage, was wrecked on a reef off the coast of New Guinea. All her crew were saved, and arrived at Calcutta *via* Penang on the 9th of October, 1806.

Note 196, pages 714 and 801.

The Rule established by Earl Bathurst.

At the beginning of his administration of the colonies, Earl Bathurst frequently received petitions, memorials and complaints, addressed to him and forwarded direct from residents in New South Wales. As it was impossible to decide upon many of the questions involved without reference to the governor, he established the rule that all communications to himself from New South Wales should be forwarded through the governor to enable the governor at the same time to submit a report.

Note 197, page 715.

An extract from a despatch.

By the penultimate paragraph of his despatch, dated 30th August, 1828 (*see* page 365), Sir George Murray ordered Governor Darling to transmit a portion of that despatch to F. Forbes.

Note 198, page 716.

The Act which was recently passed in Parliament.

This was the statute 10 Geo. IV, c. vii, entitled "An Act for the Relief of His Majesty's Roman Catholic Subjects." It was extended to and declared in force in the colony by the act of council, 10 Geo. IV, No. 9, passed on the 18th of January, 1830.

Note 199, page 717.

Contrary to my Instructions.

By his commission (*see* page 106, volume XII), Governor Darling was empowered to grant lands as follows:—"And we do hereby give and grant

unto you full power and authority, with the advice of our Executive Council of our said territory and its dependencies, to agree for such Lands, Tenements and Hereditaments, as shall be in our power to dispose of, and them to grant to any person or persons, upon such terms and under such moderate quit rents, services and acknowledgments, to be thereupon reserved us, according to such instructions as shall be given to you under our Sign Manual."

Note 200, page 718.

The decision.

This decision was announced by Sir George Murray in a despatch, dated 30th August, 1828 (*see* page 366).

Note 201, page 722.

A question of this importance.

Prior to the discovery and exploration of the watershed of the Darling river, various conjectures were made with regard to the interior of Australia. About the year 1800, the popular idea was the existence of a strait, extending from north to south and dividing Australia into two islands. The discovery of the deep indentation of the coast line between Cape Otway and Wilson's promontory by James Grant in the *Lady Nelson* in the year 1800 was regarded as evidence in favour of this theory, until Port Phillip was discovered and examined. The theory of a strait prevailed until Matthew Flinders finally proved the integrity of the continent of Australia.

Speculation was then divided into two main schools; one believing in the theory of an inland sea or great lake, and the other in a vast river flowing into the sea on the north-west coast of Australia with a watershed, including most of the interior and extending to the western slopes of the main dividing range. The theory of an inland sea received strong support, when J. Oxley discovered the Macquarie marshes in 1818. The westerly and north-westerly course of several rivers, which feed the Darling river, favoured the theory of the "great river" prior to the discovery of the Darling river. The conjectures of both schools were gradually dispelled principally by the discoveries of C. Sturt and T. L. Mitchell.

Note 202, pages 724, 725 and 726.

Mr. Hovell's services.—The Expedition to Western Port.

The "expedition" was sent to Western port, Victoria, in November, 1826, to found a settlement. Samuel Wright acted as commandant, and he was assisted by F. A. Wetherall, captain of H.M. ship *Fly*. W. H. Hovell was attached to this expedition with the object of conducting explorations; he submitted a report on his examination of the neighbourhood of the port to Governor Darling, dated 27th March, 1827 (*see* pages xviii *et seq.* and 854 *et seq.*, volume V, series III).

Note 203, page 726.

Explorers.

G. Blaxland, W. Lawson and W. C. Wentworth discovered the first route across the Blue mountains in the year 1813 (*see* notes 131 and 132, volume VIII).

John Blaxland, junior, discovered the route, which was practically followed by the great northern road from Wiseman's ferry.

Archibald Bell discovered the road, which is still known as Bell's line of road. It commenced at the Kurrajong, and, passing over the summit of Mount Tomah, joined the old western road at Collitt's inn. The road was marked by assistant surveyor Hoddle in the year 1823.

Charles Throsby made numerous discoveries in the country near Goulburn and Lake George, and towards the district of Illawarra.

Mark J. Currie arrived in the colony in October, 1822, as commander of H.M. sloop *Satellite*.

Papers in connection with these explorations will be found in a volume in series V.

The grant to Bell, promised before the 12th of November, 1825, was not confirmed until the 12th of July, 1839, and the grant to Blaxland, promised before the 6th of August, 1825, until the 30th of April, 1840.

Note 204, page 726.

His Discovery.

In the year 1823, W. H. Hovell explored the watersheds of the Nattai and Wollondilly rivers to the west of the modern town of Picton, and opened up the fertile valley of Burragorang. The same district had been explored by Francis Barrallier in the year 1802 (*see* note 232, volume III).

Note 205, page 727.

Every important Discovery of the Interior of the Colony has been effected by the Zeal and Enterprise of private Individuals.

The progress of exploration, outside the boundaries of the county of Cumberland, may be summarised in explanation of this statement. Exclusive of the discoveries by John Wilson in the county of Camden in 1798 (*see* note 58, volume II), by Francis Barrallier in the watershed of the Wollondilly river in 1802 (*see* note 232, volume III), and by George Caley in the Blue mountains when he penetrated to Mount King George in 1805 (*see* note 193, volume V), the era of exploration commenced with the crossing of the Blue mountains by G. Blaxland, W. Lawson, and W. C. Wentworth in May, 1813 (*see* note 131, volume VIII). In November and December, 1813, G. W. Evans discovered the Bathurst plains and the Macquarie river, and, in May, 1815, the Lachlan river (*see* notes 38 and 138, volume VIII). In 1817, John Oxley explored the Lachlan river, and, in 1818, the Macquarie river (*see* notes 85 and 168, volume IX). In 1818, John Howe accomplished a journey from Windsor to the Hunter river, followed in a few years by the discovery by John Blaxland, junior, of a practicable route for a road to the Hunter river. About the same time, the southern tablelands were explored as far south as Lake George by H. Hume and C. Throsby; and, in 1819, Throsby connected the discoveries in the south and the west by a journey from Mittagong to Bathurst. The district of Illawarra was explored by James Meehan and C. Throsby in the years 1818 and 1819. In 1823, Archibald Bell discovered the second practicable route across the Blue mountains from Richmond *via* Mount Tomah. In 1824, H. Hume and W. H. Hovell accomplished their journey from Lake George to Port Phillip (*see* note 151, volume XI). In 1823, Allan Cunningham discovered Pandora's pass to the Liverpool plains, in 1827 the Darling downs (*see* note 140, volume XIII), and, in 1828, the passage through Cunningham's gap from Moreton bay to the Darling downs (*see* note 132). Besides these discoveries, there were at different dates minor expeditions, notably in the watershed of the Hunter river by several individuals, of the Cudgegong river by W. Lawson, and of the Brisbane river by P. Logan (*see* volumes in series V). Of these discoveries, the most important

were probably the passage of the Blue mountains in 1813 and the journey to Port Phillip in 1824, and these were initiated by private enterprise. The important discoveries by Allan Cunningham of Pandora's pass and the Darling downs were only of a semi-official character, Cunningham at the time being employed as a botanical collector for the gardens at Kew, London.

Note 206, page 727.

The late Surveyor-General.—The Officer acting under him.

The references were to John Oxley and G. W. Evans.

Note 207, page 733.

Also page 734.

Our gracious Sovereign . . . commanded.

The reference was to a despatch, dated 20th June, 1825 (*see* page 671, volume XI).

Note 208, pages 737, 740 and 741.

Huahine.—Tongo Literature.

At Huahine, probably the most systematic attempt was made by missionaries to civilise the natives either of Australia or of the islands of the south seas. A printing press was established, on which pamphlets were produced in the native language. In 1820, at an assembly of chiefs, the missionaries induced the four principal chiefs to agree upon and sign a code of twenty-five laws, which was printed as a large broadside in the native tongue. This code related to (1) murder; (2) theft; (3) animals doing mischief; (4) stolen property; (5) lost property; (6) exchange or sale; (7) observance of the Sabbath; (8) war-eaters; (9) wife of two husbands; (10) a former wife; (11) adultery; (12) forsaking husband or wife; (13) not providing for a wife; (14) matrimony; (15) deceit; (16) unnatural crime; (17) crime with females; (18) fornication; (19) drunkards; (20) dog stealing food; (21) wild hogs; (22) suicide; (23) accessories; (24) acknowledging crime; (25) bribing of judge. At the same time, judges were appointed, their duties defined, and trial by jury established.

At the mission press, arithmetical tables and questions and answers on the Christian religion were also printed in pamphlet form.

Note 209, page 739.

Ormi, the Native who visited England.

Ormi, or Omai as spelt by James Cook, was a native of Raiatea. When Cook visited the Society group in September, 1773, Ormi had been robbed of his property by neighbouring islanders. T. Furneaux allowed him to remain on board the *Adventure*, and carried him to England. In England, he "was caressed by many of the principal nobility," and "did nothing to forfeit the esteem of any one of them." He returned to Huahine with Cook in October, 1777, with many presents given to him in England by the earl of Sandwich and others.

Note 210, pages 741 and 742.

The people from Pitcairne's Island.

These were the descendants of Fletcher Christian, eight members of the crew of H.M. ship *Bounty* who had mutinied against William Bligh in April, 1789, and twenty male and female natives of Otaheite. These persons had

landed on Pitcairn island in October, 1789, where the *Bounty* was burnt and her guns sunk. Owing to quarrels and accidents, all the men except two were killed; and, in 1799, Edward Young a midshipman and John Adams only remained with the women and children. Young died in the following year, and Adams remained as a kind of patriarch. It was not until the year 1808 that the existence of these people was made known by the visit of a naval vessel to Pitcairn island, which had been discovered in July, 1767, by Pitcairn, a midshipman on H.M. sloop *Swallow*, commanded by Carteret.

Note 211, page 742.

The flag here represented.

In the original, there was a drawing of a flag, divided into three equal horizontal parts, coloured red, white and red respectively.

Note 212, page 742.

P.S.

In another copy of this letter, this postscript was omitted, and the following inserted:—

"P.S.—Should their Lordships deem such a visit to the Islands expedient, the most desirable time would be between April and October, as at that Season the passage can be made from Port Jackson in from twenty to twenty-eight days.

"As Captain Beachey has already submitted home plans of this Harbour, I need only to add that an abundance of excellent Fresh Beef, Vegetables and water can be obtained, the former at the rate of 3d. p. lb."

Note 213, page 744.

My letter.

A copy of this letter will be found on page 91.

Note 214, page 744.

My Lord Goderich . . . informed me.

The reference was to a despatch dated 4th August, 1827 (*see* page 490, volume XIII).

Note 215, page 746.

My letter.

A copy of this letter will be found on page 562 *et seq.*

Note 216, page 747.

Whose conduct.

In despatches, dated 4th September and 30th December, 1828, Governor Darling reported the misconduct of the Reverend Frederick Wilkinson (*see* pages 386 *et seq.* and 560 *et seq.*).

Note 217, page 748.

A Periodical Work.

This was the *Australian Quarterly Journal of Theology, Literature and Science*, which was first published in January, 1828.

Note 218, pages 763 and 764.

My former Despatches.—Rule of Law.—Re-enacted.—An Extract.

The despatches were dated 1st March, 24th March, 3rd August, 8th November and 20th November, 1827 (*see* pages 137 *et seq.*, 187 *et seq.*, 487 *et seq.*, 604 *et seq.* and 622 *et seq.*, volume XIII).

The ruling dealt with the power of a governor to revoke the assignment of a convict, which F. Forbes and his colleagues, J. Stephen and J. Dowling, erroneously held was not conferred on the governor under the statute 9 Geo. IV, c. lxxxiii.

The statute, 12 Ann, c. vii, entitled, "An Act for the more effectual preventing and punishing robberies that shall be committed in houses," was repealed by the English statute, 7 and 8 Geo. IV, c. xxvii. The last-mentioned statute was adopted by act of council, 9 Geo. IV, No. 1, which at the same time adopted the statute 7 and 8 Geo. IV, c. xxix.

The extract was probably the sixth section of the despatch, dated 30th August, 1828 (*see* page 361).

Note 219, page 764.

Also pages 765, 767 and 773.

The 9th Section.

The details of this section are recorded in note 104. The section was inserted in the wrong position in the statute (*see* par. 21, page 270).

Note 220, page 768.

Also page 774.

The transportation Acts.

These acts were:—

4 Geo. I, c. xi.—"An Act for the further preventing Robbery, Burglary and other Felonies, and for the more effectual Transportation of Felons and unlawful Exporters of Wool, and for declaring the Law upon some Points relating to Pirates."

8 Geo. III, c. xv.—"An Act for the more speedy and effectual Transportation of Offenders."

43 Geo. III, c. xv.—"An Act to facilitate and render more easy the Transportation of Offenders."

56 Geo. III, c. xxvii.—"An Act to amend several Laws relative to the Transportation of Offenders, to continue in force until the First Day of May, One thousand, eight hundred and twenty-one."

5 Geo. IV, c. lxxxiv.—"An Act for the Transportation of Offenders from Great Britain."

Note 221, page 779.

The Warrant . . . has not yet arrived.

The warrant was transmitted by Sir George Murray with his despatch, dated 1st February, 1829 (*see* pages 623 and 624).

Note 222, page 781.

Application.

This was the usual printed form, the words in italics being inserted in manuscript.

Note 223, page 783.

Recent Orders.

These orders were contained in the despatch from Sir George Murray, dated 22nd June, 1828, and numbered 9 (*see* page 237).

Note 224, pages 785, 786 and 787.

The Archdeacon proposes.—The suggestions.—In the further Reports.

The references will be found on pages 776 and 777, volume XIII, and on page 49 *et seq.* in this volume.

Note 225, pages 788 and 790.

The report.—The claims.

The report will be found on page 154 *et seq.*, volume V, series III, and the claims on page 97 *et seq.* in this volume.

Note 226, page 792.

My Despatch No. 44.

This despatch will be found on page 714 *et seq.*

Note 227, page 794.

The Opposition Papers of the day spoke in favour.

An extract from the *Australian* newspaper, dated 25th November, 1826, will be found on page 722, volume XII.

Note 228, page 794.

The two Soldiers.

These soldiers were John Jones and John Dougherty, of the 57th regiment, each of whom maimed himself by shooting off one of his own arms in order to escape military service. They were ordered to be continued in the service and to be employed as scavengers at the barracks on Norfolk island.

Note 229, page 799.

Also pages 836 and 859.

The Act of Council.

The act of council, 7 Geo. IV, No. 5, was entitled "An Act for the Transportation of Offenders to Penal Settlements and for the more effectual Punishment and Security of the same."

The preamble recited the order-in-council, dated 11th November, 1825 (*see* page 89, volume XII), and the proclamation by Governor Darling, dated 15th August, 1826 (*see* note 232).

By the first section, "Communication with places declared to be Penal Settlements (was) prohibited without license or permission of the Governor in writing." Unauthorised communication was declared a misdemeanour.

By section two, it was enacted that persons, heretofore transported under sentence of any court or competent authority in New South Wales, should be subject to such laws and regulations as shall be in force with respect to convicts hereafter transported.

By section three, it was provided that the governor might direct the removal of offenders to such places.

By section four, it was provided that the judges and justices might condemn offenders to serve the governor or acting governor or his assigns for the same time and under the same rules, as if the offenders had been transported from England.

By section five, it was enacted that offenders, born in the colony or who came free, should for the first offence be liable to imprisonment and hard labour within prison walls only, or to assignment in the ordinary manner.

By section six, the governor or acting governor was empowered to withdraw from the penal settlements persons sentenced to transportation, and to employ them on the roads or otherwise.

Note 230, page 818.

The testimony.

The evidence of James MacIntyre will be found on page 745 *et seq.*, volume XII.

Note 231, page 825.

My Public Connexion.

In a memoir, published in 1843, William Charles Wentworth stated:—"Being shortly after this (1819) called to the Bar, Mr. Wentworth became acquainted with the late Dr. Wardell, who was the editor of a London evening newspaper called the *Statesman*. This gentleman accompanied Mr. Wentworth to Sydney in the year 1824, bringing with them materials for the purpose of starting a newspaper in Sydney. This was the origin of the *Australian*, a publication which rendered the State some service; and, after many hazardous changes, still (1843) continues to flourish. Mr. Wentworth, however, soon relinquished his share of the publication, and devoted himself with success to the more lucrative practice of his profession."

Note 232, page 842.

Proclamation of the 15th August, 1826.

This proclamation was made in pursuance of the order-in-council of November, 1825 (*see* page 89, volume XII), and the settlements at Moreton bay, Port Macquarie and Norfolk island were declared places, within the meaning of that order, to which persons convicted in the colony might be transported.

Note 233, page 846.

Seven men.

A return of men, convicted of crimes or self-inflicted wounds to escape military service, will be found on page 897.

Note 234, page 855.

The punishment.

Joseph Wall was lieut.-governor of Senegal or Goree. On the 10th of July, 1782, a deputation of men from the African corps, who for some time had been on short allowance, approached him to obtain a settlement, their leader being Benjamin Armstrong. Wall, when it was alleged in a state of intoxication, immediately had Armstrong arrested and had him flogged by black natives. Armstrong received eight hundred lashes, and soon after died as the

result of the punishment. On his return to England, Wall was arrested, but, escaping from custody, lived for many years iu Italy and France. In 1801, he returned to Euglaud, and was tried at the Old Bailey on the 20th of January, 1802. He was convicted aud executed eight days later.

Note 235, page 857.

The Case of Alexander Lookaye.

The despatches on the case of A. Lockaye (Lookaye, Low Kay or Lockage) will be found ou page 671, volume XI, pages 242 and 243, volume XII, and page 165 *et seq.* iu this volume.

Note 237, page 859.

The report.—Return.

The trial of J. Sudds and P. Thompson at the quarter sessions was held on the 8th of November, 1826. Evidence was giveu that, on the 20th of September between 8 aud 9 p.m., Sudds and Thompson entered a small shop in Syduey and asked to see some shirting. Sudds selected a piece of about twelve yards, put it under his arm, and walked out of the shop, asking Thompsou to pay for it. After using bad language, Thompson soon after left the shop, refusing to pay. Both men were arrested on a charge of larceny. A copy of the certificate of couviction will be found on page 617.

Details of the motion for production and the papers laid ou the table of the house of commons will be found in note 174.

Note 238, page 863.

Sir John Jamieson.

Sir Johu Jamison possessed a large estate kuown as Regentville, about two miles from Penrith. The estate was inherited from his father Thomas Jamison, surgeon's first mate on H.M. ship *Sirius* in the first fleet, to whom the land was granted. John Jamison was created a knight of the order of Gustavus Vasa by Charles XIII, king of Sweden, for his services during au outbreak of cholera and dysentery in the Swedish army in 1807, when Jamison was a surgeon in the English navy ou service in the Baltic sea.

Note 239, page 870.

That part of Mr. Wentworth's Letter.

The references will be found on pages 821, 832 and 834.

Note 240, page 872.

Mr. Wentworth states.—Mr. Wentworth alleges.

The references will be fouud on pages 803 and 805.

Note 241, page 874.

It is stated.—It is alleged.—In page —.

The references will be found on pages 807 and 834; pages 808, 810 and 815; and page 808.

Note 242, page 875.

It is also stated.

The references will be found ou pages 811 and 864.

Note 243, page 877.

It is stated.

The references will be found on pages 813 and 815.

Note 244, page 878.

Mr. Wentworth alleges.

The references will be found on pages 820, 829 and 830.

Note 245, page 878.

Mr. M'Intyre has already been twice examined.

James MacIntyre was examined before the executive council on the 8th and 9th December, 1826 (*see* page 745 *et seq.*, volume XII).

Note 246, page 879.

It is further alleged.—It is also alleged.

The references will be found on pages 824 and 827 and pages 830 and 831.

Note 247, page 880.

The letter states.

The reference will be found on page 825.

Note 248, page 881.

Mr. Wentworth alleges.—It is alleged.

The references will be found on pages 821, 832 and 834, and pages 839 and 850 *et seq.*

Note 249, page 898.

Seems to have been seized upon.

W. C. Wentworth was in error in this conclusion. Governor Darling desired to postpone the withdrawal of F. Forbes from the executive council, until the enquiry was concluded; but Forbes declined to participate (*see* page 899).

SYNOPSIS OF DESPATCHES.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1828.
Gower, Lord Francis Leveson	Darling, Governor	1 Mar.	.....	.....	3	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	1 Mar.	No. 25	Ship Orelia.....	5	Murray, Sir George	12 Nov.
Do	do	1 Mar.	Private ...	do	5	do	30 Aug.
Huskisson, Right Hon. W.	Darling, Governor	3 Mar.	No. 17	Ship Bussorah Merchant	9	Darling, Governor	9 Aug.
Darling, Governor	Huskisson, Right Hon. W.	4 Mar.	No. 26	Ship Orelia.....	10	Murray, Sir George	12 Nov.
Huskisson, Right Hon. W.	Darling, Governor	5 Mar.	No. 18	Ship Bussorah Merchant	10	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	5 Mar.	No. 27	Ship Orelia.....	11	.....	.....
Do	Hay, Under Secretary	5 Mar.	Private ...	do	14	.....	.....
Do	do	5 Mar.	.....	do	14	.....	.....
Do	Huskisson, Right Hon. W.	6 Mar.	No. 28	do	15	Murray, Sir George	12 Nov.
Gower, Lord Francis Leveson	Darling, Governor	7 Mar.	.....	.....	16	.....	.....
Darling, Governor	Barnard, E.	7 Mar.	.....	Ship Orelia.....	17	.....	.....
							1829.
Do	Huskisson, Right Hon. W.	7 Mar.	No. 29	do	18	Murray, Sir George	3 Jan.
Do	do	7 Mar.	No. 30	do	23	.....	.....
Do	do	10 Mar.	No. 31	Ship Eliza	3	.....	.....
Do	do	10 Mar.	No. 32	do	3	.....	.....
Do	do	11 Mar.	No. 33	do	23	.....	.....
Do	do	12 Mar.	No. 34	do	24	.....	.....
							1828.
Do	do	13 Mar.	No. 35	do	24	Murray, Sir George	25 Oct.
Do	do	14 Mar.	No. 36	do	3	.....	.....
Do	do	15 Mar.	No. 37	do	25	Murray, Sir George	12 Dec.
Do	Stanley, Under Secretary	15 Mar.	.....	do	27	.....	.....
Do	Huskisson, Right Hon. W.	17 Mar.	No. 38	do	27	Murray, Sir George	27 Nov.
Huskisson, Right Hon. W.	Darling, Governor	18 Mar.	.....	.....	30	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	18 Mar.	No. 39	Ship Eliza	31	Murray, Sir George	31 Oct.
Do	do	19 Mar.	No. 40	do	32	.....	.....
Do	do	20 Mar.	No. 41	do	32	.....	.....
							1829.
Do	do	21 Mar.	No. 42	do	33	Murray, Sir George	4 Feb.
							1828.
Do	do	22 Mar.	No. 43	do	33	do	11 Nov.
Do	Stanley, Under Secretary	22 Mar.	.....	do	36	.....	.....
Do	Huskisson, Right Hon. W.	24 Mar.	Separate ...	do	37	Murray, Sir George	3 Nov.
Do	do	24 Mar.	No. 44	do	39	do	2 Nov.
Do	do	25 Mar.	No. 45	do	41	do	30 Sept.
Do	do	26 Mar.	No. 46	do	41	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1828.
Darling, Governor	Huskisson, Right Hon. W.	27 Mar.	No. 47	Ship Eliza	44	Murray, Sir George	26 Oct.
Do	do	27 Mar.	No. 48	do	47	.....	.....
							1829.
Do	do	27 Mar.	No. 49	do	53	Murray, Sir George	25 May.
Do	do	27 Mar.	No. 50	do	54	.....	.....
							1828.
Do	do	28 Mar.	No. 51	do	64	Murray, Sir George	26 Nov.
Do	do	28 Mar.	No. 52	do	69	do	13 Nov.
Do	do	28 Mar.	No. 53	do	73	do	27 Oct.
							1829.
Do	do	30 Mar.	No. 54	do	76	do	25 May.
Do	do	30 Mar.	No. 55	do	78	.....	.....
Do	do	30 Mar.	No. 56	do	79	Murray, Sir George	9 Jan.
Do	do	30 Mar.	No. 57	do	79	.....	.....
Huskisson, Right Hon. W.	Darling, Governor	31 Mar.	No. 19	Ship Countess of Harcourt.	80	Darling, Governor	1 Feb.
							1828.
Darling, Governor	Huskisson, Right Hon. W.	31 Mar.	No. 58	Ship Eliza	85	Murray, Sir George	15 Nov.
Do	do	31 Mar.	No. 59	do	86	do	14 Nov.
							1829.
Do	do	31 Mar.	No. 60	do	95	do	25 May.
Do	Stanley, Under Secretary	31 Mar.	.....	do	101	.....	.....
							1828.
Do	Huskisson, Right Hon. W.	1 April	No. 61	do	102	Murray, Sir George	2 Nov.
Do	do	2 April	No. 62	do	103	do	4 Nov.
Do	do	3 April	Separate	do	105	do	22 Sept.
Do	do	3 April	No. 63	do	112	do	17 Dec.
Do	do	3 April	No. 64	do	114	.....	.....
Do	Hay, Under Secretary	3 April	Private	do	115	.....	.....
Do	Huskisson, Right Hon. W.	5 April	No. 65	do	116	.....	.....
Do	do	5 April	Separate	do	118	.....	.....
Do	Stanley, Under Secretary	5 April	Private	do	119	.....	.....
Do	Huskisson, Right Hon. W.	7 April	Private	Ship Cape Packet	120	.....	.....
							1829.
Do	do	10 April	No. 66	do	122	Murray, Sir George	19 April.
Do	do	10 April	.....	do	144	.....	.....
Do	do	11 April	No. 67	do	145	.....	.....
Do	do	14 April	No. 68	do	153	.....	.....
							1828.
Do	do	15 April	No. 69	do	153	Murray, Sir George	26 Nov.
Do	do	16 April	No. 70	do	158	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1828.
Huskisson, Right Hon. W. ...	Darling, Governor	26 April	No. 20	Ship Countess of Harcourt.	160	Darling, Governor	18 Nov.
Do ...	do	27 April	No. 21	do ...	161	.....	.....
Do ...	do	28 April	No. 22	do ...	161	.....	.....
Do ...	do	29 April	No. 23	do ...	162	.....	.....
Do ...	do	30 April	No. 24	do ...	163	.....	.....
Darling, Governor	Huskisson, Right Hon. W. ...	10 May	No. 71	Ship Cape Packet	163	Murray, Sir George	26 Nov. 1829.
Do	do	11 May	No. 72	do	165	do	1 May.
Huskisson, Right Hon. W. ...	Darling, Governor	12 May	No. 25	Ship Albion	172	Darling Governor.....	7 April.
Do ...	do	13 May	No. 26	do	175	.....	.....
							1828.
Darling, Governor	Huskisson, Right Hon. W. ...	13 May	No. 73	Ship Cape Packet	176	Murray, Sir George	26 Nov.
Gower, Lord Francis Leveson	Darling, Governor	14 May	.....	.....	180	.....	.....
							1829.
Darling, Governor	Huskisson, Right Hon. W. ...	14 May	No. 74	Ship Cape Packet	180	Murray, Sir George	30 Aug.
							1828.
Huskisson, Right Hon. W. ...	Darling, Governor	15 May	No. 27	Ship Albion	183	Darling, Governor	31 Dec.
Darling, Governor	Huskisson, Right Hon. W. ...	15 May	No. 75	Ship Cape Packet	183	Murray, Sir George	20 Dec.
Huskisson, Right Hon. W. ...	Darling, Governor	16 May	No. 28	Ship Albion	188	.....	.....
Darling, Governor	Huskisson, Right Hon. W. ...	16 May	No. 76	Ship Cape Packet	188	Murray, Sir George	27 Nov.
Huskisson, Right Hon. W. ...	Darling, Governor	17 May	No. 29	Ship Albion	190	.....	.....
Darling, Governor	Huskisson, Right Hon. W. ...	17 May	No. 77	Ship Cape Packet	191	Murray, Sir George	27 Nov.
Huskisson, Right Hon. W. ...	Darling, Governor	18 May	No. 30	Ship Albion	192	.. ..	.....
Do ...	do	19 May	No. 31	do	192	.....	.....
Do ...	do	21 May	No. 32	do	193	.....	.....
Do ...	do	22 May	No. 33	do	193	.....	.....
Darling, Governor	Stanley, Under Secretary	22 May	.....	Ship Cape Packet	193	.....	.....
Huskisson, Right Hon. W. ...	Darling, Governor	23 May	No. 34	Ship Albion	194	.....	.....
Darling, Governor	Huskisson, Right Hon. W. ...	23 May	Private ...	Ship Cape Packet	194	.....	.....
							1829.
Gower, Lord Francis Leveson	Darling, Governor	24 May	.....	Ship Eliza	195	Darling, Governor	21 Jan.
Do ...	do	24 May	.....	Ship Competitor	195	.....	.....
Do ...	do	24 May	.....	.....	196	.....	.....
Darling, Governor	Stanley, Under Secretary	24 May	Private.....	Ship Cape Packet	196	.....	.....
Do	do	25 May	.....	do	199	.....	.....
Huskisson, Right Hon. W. ...	Darling, Governor	26 May	No. 35	Ship Albion	199	.....	.....
Gower, Lord Francis Leveson	do	26 May	.....	Ship Competitor	200	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1828.
Darling, Governor	Stanley, Under Secretary	26 May	.....	Ship Cape Packet	200	Twiss, Under Secretary	30 Nov.
Do	Huskisson, Right Hon. W. ...	27 May	No. 78	do	201	.....	.....
Do	do ...	27 May	No. 79	do	203	Murray, Sir George	23 Dec.
Do	do ...	28 May	No. 80	do	205	do	12 Dec.
							1829.
Do	do ...	28 May	Separate ...	do	206	do	6 Jan.
							1828.
Do	do ...	29 May	No. 81	do	209	do	12 Dec.
							1829.
Do	do ...	29 May	No. 82	do	210	do	14 Jan.
							1828.
Do	do ...	29 May	No. 83	do	210	do	21 Dec.
Do	Stanley, Under Secretary	29 May	.....	do	211	.....	.....
Do	do	29 May	.....	do	212	.....	.....
Do	do	29 May	.....	do	212	Hay, Under Secretary	12 Dec.
Murray, Sir George	Darling, Governor	30 May	Circ. No. 1.	Ship Competitor	214	Darling, Governor	8 Nov.
Do	do	31 May	No. 1.....	do	214	do	13 Dec.
Do	do	31 May	No. 2.....	do	215	.....	.....
Do	do	31 May	No. 3.....	do	216	.....	.....
Do	do	31 May	No. 4.....	do	217	.....	.....
Do	do	31 May	No. 5.....	do	218	.....	.....
Do	do	31 May	Circ. No. 2.	do	218	.....	.....
Hay, Under Secretary	do	1 June	.....	do	219	.....	.....
Murray, Sir George	do	3 June	No. 6.....	do	220	.....	.....
Do	do	4 June	No. 7.....	do	220	.....	.....
							1829.
Do	do	5 June	Separate ...	Ship Surry	221	Darling, Governor	25 Jan.
Hay, Under Secretary	do	5 June	.....	.....	221	.....	.....
Murray, Sir George	do	6 June	Circ. No. 3.	Ship Surry	222	.....	.....
Hay, Under Secretary	do	9 June	Private	Ship Competitor	224	Darling, Governor	28 Aug.
Do	do	10 June	.....	do	225	.....	.....
Murray, Sir George	do	12 June	Separate ...	*via* Hobart Town.....	225	.....	.....
Do	do	12 June	Private	do	226	.....	.....
Hay, Under Secretary	do	17 June	.....	.....	226	.....	.....
Twiss, Under Secretary	do	18 June	.....	.....	226	.....	.....
Darling, Governor	Huskisson, Right Hon. W. ...	19 June	No. 84	Brig Margaret	227	Murray, Sir George	2 Jan.
Do	do ...	19 June	Separate ...	do	229	.....	.....
Do	do ...	20 June	No. 85	do	231	.....	.....
Do	do ...	21 June	No. 86	do	3	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1828.
Darling, Governor	Huskisson, Right Hon. W.	21 June	Separate	Brig Margaret	234	.....	.....
Murray, Sir George	Darling, Governor	22 June	No. 8	Ship Eliza	237	.....	.....
Do	do	22 June	No. 9	do	237	Darling, Governor	24 Nov.
Twiss, Under Secretary	do	22 June	.....	do	239	do	19 Dec.
Do	do	24 June	.....	do	240	do	30 Dec.
Do	do	25 June	.....	do	240	do	20 Dec.
Murray, Sir George	do	26 June	No. 10	do	242	do	30 Dec.
Do	do	27 June	No. 11	Ship Competitor	243	.....	.....
Twiss, Under Secretary	do	27 June	.....	.....	243	.....	.....
							1829.
Murray, Sir George	do	28 June	No. 12	Ship Competitor	245	Darling, Governor	1 Feb.
Do	do	2 July	.....	.....	246	.....	.....
Twiss, Under Secretary	do	9 July	.....	.....	246	.....	.....
Darling, Governor	Hay, Under Secretary	10 July	.....	Ship Boddington	247	Twiss, Under Secretary	8 April.
Do	do	14 July	.....	do	248	....	.....
Murray, Sir George	Darling, Governor	15 July	No. 13	Ship Royal Sovereign	248	.....	.....
Do	do	15 July	.....	.....	248	.....	.....
Do	do	16 July	No. 14	Ship Royal Sovereign	249	.....	.....
Twiss, Under Secretary	do	17 July	.....	.....	249	.....	.....
							1828.
Murray, Sir George	do	19 July	No. 15	Ship Royal Sovereign	249	Darling, Governor	31 Dec.
Do	do	27 July	No. 16	do	250	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	27 July	No. 87	Ship Boddington	3	.....	.....
							1829.
Do	do	28 July	No. 88	do	252	Murray, Sir George	1 June.
Do	do	29 July	No. 89	do	257	.....	.....
Do	do	30 July	No. 90	do	258	Murray, Sir George	11 April.
Do	do	30 July	Separate	do	258	.....	.....
Do	Hay, Under Secretary	30 July	.....	do	260	.....	.....
Do	do	30 July	.....	do	260	.....	.....
Murray, Sir George	Darling, Governor	31 July	No. 17	Ship Royal Sovereign	260	Darling, Governor	21 May.
Do	do	31 July	No. 18	do	272	.....	.....
Do	do	31 July	Separate	do	275	Darling, Governor	21 May.
Darling, Governor	Huskisson, Right Hon. W.	31 July	No. 91	Ship Boddington	277	Murray, Sir George	12 April.
Do	Hay, Under Secretary	31 July	.....	do	282	.....	.....
Murray, Sir George	Darling, Governor	1 Aug.	No. 19	Ship Royal Sovereign	283	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	1 Aug.	No. 92	Ship Boddington	3	.....	.....
Twiss, Under Secretary	Darling, Governor	2 Aug.	.....	.....	283	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1829.
Darling, Governor	Huskisson, Right Hon. W.	2 Aug.	No. 93	Ship Boddington	284		
Do	do	2 Aug.	Private	do	311		
Twiss, Under Secretary	Darling, Governor	2 Aug.		Ship Royal Sovereign	314		
Murray, Sir George	do	4 Aug.	No. 20	do	314		
Darling, Governor	Huskisson, Right Hon. W.	4 Aug.	No. 94	Ship Boddington	315	Murray, Sir George	13 April.
Twiss, Under Secretary	Darling, Governor	5 Aug.			317		
Darling, Governor	Huskisson, Right Hon. W.	5 Aug.	No. 95	Ship Boddington	317	Murray, Sir George	14 April.
Murray, Sir George	Darling, Governor	6 Aug.	No. 21	Ship Royal Sovereign	322		
Darling, Governor	Huskisson, Right Hon. W.	6 Aug.	No. 96	Ship Boddington	323		
Murray, Sir George	Darling, Governor	7 Aug.	No. 22	Ship Royal Sovereign	325		
Darling, Governor	Huskisson, Right Hon. W.	7 Aug.	No. 97	Ship Boddington	326		
Do	do	8 Aug.	No. 98	do	326		
Do	do	9 Aug.	No. 99	do	329	Murray, Sir George	15 April.
Do	do	11 Aug.	No. 100	do	330	do	16 April.
Do	do	12 Aug.	No. 101	do	332		
Do	do	13 Aug.	No. 102	do	334	Murray, Sir George	16 April.
Do	do	14 Aug.	No. 103	do	335	do	26 May.
Do	do	15 Aug.	No. 104	do	336	do	16 April.
Do	Hay, Under Secretary	15 Aug.		do	336		
Do	Huskisson, Right Hon. W.	16 Aug.	No. 105	do	336	Murray, Sir George	23 April.
Murray, Sir George	Darling, Governor	17 Aug.	No. 23	Ship Royal Sovereign	338		
Twiss, Under Secretary	do	18 Aug.		do	340	Darling, Governor	20 June.
Darling, Governor	Hay, Under Secretary	18 Aug.	Private	Ship Boddington	341		
Murray, Sir George	Darling, Governor	19 Aug.	No. 24	Ship Royal Sovereign	342		
Do	do	19 Aug.	Circular	do	342		
Hay, Under Secretary	do	20 Aug.			344		
Darling, Governor	Gower, Lord Francis Leveson.	20 Aug.		Ship Boddington	344		
Do	Huskisson, Right Hon. W.	27 Aug.	No. 106	do	345		
Do	do	28 Aug.	No. 107	do	347	Murray, Sir George	16 April.
Do	do	28 Aug.	Separate	do	350	do	3 Sept.
Murray, Sir George	Darling, Governor	29 Aug.	No. 25	Ship Swiftsure	352		
Darling, Governor	Huskisson, Right Hon. W.	29 Aug.	No. 108	Ship Boddington	352		
Do	Gower, Lord Francis Leveson.	29 Aug.		do	355		
Murray, Sir George	Darling, Governor	30 Aug.	No. 26	Ship Swiftsure	356	Darling, Governor	21 April.
Do	do	30 Aug.		do	366		
Darling, Governor	Huskisson, Right Hon. W.	30 Aug.	No. 109	Ship Boddington	367		
Do	do	30 Aug.	No. 110	do	3		
Do	do	30 Aug.	No. 111	do	3		
Do	Hay. Under Secretary	30 Aug.		do	368	Hay. Under Secretary	19 June.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
		1828.					1829.
Darling, Governor	Hay, Under Secretary	30 Aug.	.....	Ship Boddington	369	.....	.....
Murray, Sir George	Darling, Governor	1 Sept.	No. 27	Ship Princess Royal	371	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	1 Sept.	No. 112	Ship Boddington	371	Murray, Sir George	5 June.
Do	do	1 Sept.	No. 113	do	374	do	16 April.
Do	Hay, Under Secretary	1 Sept.	.....	do	375	.....	.....
Do	do	1 Sept.	.....	do	377	.....	.....
Do	do	1 Sept.	.....	do	378	.....	.....
Do	do	1 Sept.	Private	do	379	.....	.....
Do	Huskisson, Right Hon. W.	3 Sept.	No. 114	Ship Australia	380	Murray, Sir George	16 April.
Do	Hay, Under Secretary	3 Sept.	.....	do	382	.....	.....
Do	Huskisson, Right Hon. W.	4 Sept.	No. 115	do	383	.....	.....
Do	do	4 Sept.	Separate	do	385	Murray, Sir George	28 Aug.
Do	Hay, Under Secretary	4 Sept.	.....	do	386	.....	.....
Do	Huskisson, Right Hon. W.	6 Sept.	No. 116	do	3	.....	.....
Do	do	6 Sept.	No. 117	do	391	Murray, Sir George	21 April.
Murray, Sir George	Darling, Governor	8 Sept.	No. 28	Ship Princess Royal	394	.....	.....
Do	do	9 Sept.	No. 29	do	394	.....	.....
Do	do	10 Sept.	No. 30	do	395	Darling, Governor	14 May.
Darling, Governor	Huskisson, Right Hon. W.	20 Sept.	No. 118	Ship Wanstead	396	Murray, Sir George	16 April.
Murray, Sir George	Darling, Governor	22 Sept.	No. 31	Ship Princess Royal	397	.....	.....
Twiss, Under Secretary	do	22 Sept.	.....	do	398	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	22 Sept.	No. 119	Ship Wanstead	399	Murray, Sir George	2 Sept.
Murray, Sir George	Darling, Governor	23 Sept.	No. 32	Ship Princess Royal	401	.....	.....
Darling, Governor	Huskisson, Right Hon. W.	23 Sept.	No. 120	Ship Wanstead	401	.....	.....
Do	do	24 Sept.	No. 121	do	402	Murray, Sir George	21 April.
Do	do	25 Sept.	No. 122	Ship Wanstead	404	do	16 April.
Murray, Sir George	Darling, Governor	28 Sept.	No. 33	Ship Princess Royal	405	.....	.....
Do	do	30 Sept.	No. 34	do	405	Darling, Governor	31 May.
Do	do	30 Sept.	No. 35	do	406	do	2 June.
Do	do	15 Oct.	Circular	do	407	.....	.....
Do	do	25 Oct.	No. 36	do	407	.....	.....
Do	do	26 Oct.	No. 37	do	407	.....	.....
Do	do	27 Oct.	No. 38	do	408	.....	.....
Twiss, Under Secretary	do	28 Oct.	.....	do	408	.....	.....
Murray, Sir George	do	29 Oct.	No. 39	do	409	.....	.....
Do	do	31 Oct.	No. 40	do	410	.....	.....
Do	do	1 Nov.	No. 41	do	410	Darling, Governor	15 May.
Darling, Governor	Murray, Sir George	1 Nov.	No. 123	Ship Caroline	411	Murray, Sir George	6 June.
Murray, Sir George	Darling, Governor	2 Nov.	No. 42	Ship Princess Royal	414	.....	.....

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Murray, Sir George	Darling, Governor	3 Nov.	No. 43	Ship Princess Royal	415		
Do	do	4 Nov.	No. 44	do	416		
Darling, Governor	Twiss, Under Secretary	6 Nov.		Ship Caroline	416		
Do	do	6 Nov.		do	417		
Do	Murray, Sir George	8 Nov.	No. 124	do	417	Murray, Sir George	27 Aug.
Do	do	8 Nov.	Separate	do	435	do	27 Aug.
Do	do	8 Nov.		do	443		
Do	do	10 Nov.	No. 125	Ship Ellen	445	Murray, Sir George	24 June.
Murray, Sir George	Darling, Governor	11 Nov.	No. 45	Ship Mellish	446		
Do	do	11 Nov.	No. 46	Ship Lord Melville	447		
Do	do	11 Nov.	No. 47	do	447		
Darling, Governor	Murray, Sir George	11 Nov.	No. 126	Ship Ellen	447	Murray, Sir George	27 Sept.
Murray, Sir George	Darling, Governor	12 Nov.	No. 48	Ship Lord Melville	453		
Do	do	12 Nov.	No. 49	do	454		
Do	do	12 Nov.	No. 50	do	454		
Darling, Governor	Murray, Sir George	12 Nov.	No. 127	Ship Ellen	454		
Do	Twiss, Under Secretary	12 Nov.	Private	do	455	Twiss, Under Secretary	19 Sept.
Murray, Sir George	Darling, Governor	13 Nov.	No. 51	Ship Lord Melville	459		
Darling, Governor	Murray, Sir George	13 Nov.	No. 128	Ship Ellen	460		
Murray, Sir George	Darling, Governor	14 Nov.	No. 52	Ship Lord Melville	460	Darling, Governor	16 May.
Do	do	14 Nov.	No. 55	do	461		
Darling, Governor	Murray, Sir George	14 Nov.	No. 129	Ship Ellen	461	Murray, Sir George	28 Sept.
Murray, Sir George	Darling, Governor	15 Nov.	No. 53	Ship Lord Melville	462		
Do	do	15 Nov.	No. 54	do	463		
Twiss, Under Secretary	do	15 Nov.		do	465		
Do	do	15 Nov.		do	466	Darling, Governor	18 May.
Darling, Governor	Murray, Sir George	15 Nov.	No. 130	Ship Ellen	466	Murray, Sir George	23 June.
Do	do	17 Nov.	No. 131	do	468		
Do	do	18 Nov.	No. 132	do	470		
Do	do	19 Nov.	No. 133	do	471		
Do	do	20 Nov.	Separate	do	472	Twiss, Under Secretary	26 Sept.
Do	do	24 Nov.	Separate	do	475	Murray, Sir George	10 Oct.
Murray, Sir George	Darling, Governor	26 Nov.	No. 56	Ship Waterloo	480		
Do	do	26 Nov.	No. 57	do	480		
Do	do	26 Nov.	No. 58	do	481		
Do	do	26 Nov.	No. 59	do	481		
Darling, Governor	Murray, Sir George	26 Nov.	Separate	Ship Ellen	482		
Do	Hill, General Lord	26 Nov.		do	483		
Murray, Sir George	Darling, Governor	27 Nov.	No. 60	Ship Waterloo	494		

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Murray, Sir George	Darling, Governor	27 Nov.	No. 61	Ship Waterloo	494		
Do	do	27 Nov.	No. 62	do	497		
Do	do	27 Nov.	No. 63	do	498	Darling, Governor	3 Aug.
Twiss, Under Secretary	do	27 Nov.	Private	do	498		
Darling, Governor	Murray, Sir George	28 Nov.	No. 134	Ship Ellen	499		
Do	do	29 Nov.	Separate	do	501	Murray, Sir George	4 Sept.
Twiss, Under Secretary	Darling, Governor	30 Nov.		Ship Waterloo	513		
Darling, Governor	Murray, Sir George	10 Dec.	No. 135	Ship Ellen	514		
Do	do	11 Dec.	No. 136	do	515	Murray, Sir George	30 July.
Murray, Sir George	Darling, Governor	12 Dec.	No. 64	Ship Waterloo	515		
Do	do	12 Dec.	No. 65	do	516		
Hay, Under Secretary	do	12 Dec.		do	517	Darling, Governor	20 June.
Darling, Governor	Murray, Sir George	12 Dec.	No. 137	Ship Ellen	517	Murray, Sir George	29 Aug.
Murray, Sir George	Darling, Governor	13 Dec.	No. 66	Ship Waterloo	519		
Darling, Governor	Murray, Sir George	13 Dec.	No. 138	Ship Ellen	521	Murray, Sir George	22 June.
Hay, Under Secretary	Darling, Governor	14 Dec.		Ship Waterloo	522		
Darling, Governor	Murray, Sir George	15 Dec.	No. 139	Ship Ellen	522	Murray, Sir George	16 Nov.
Do	do	16 Dec.	No. 140	do	3		
Murray, Sir George	Darling, Governor	16 Dec.	No. 67	Ship Waterloo	526		
Do	do	17 Dec.	No. 68	do	527		
Do	do	18 Dec.	No. 69	do	527		
Do	do	19 Dec.	No. 70	do	530		
Do	do	20 Dec.	No. 71	do	531		
Darling, Governor	Twiss, Under Secretary	20 Dec.		Ship Ellen	531		
Murray, Sir George	Darling, Governor	21 Dec.	No. 72	Ship Waterloo	532		
Darling, Governor	Twiss, Under Secretary	21 Dec.		Ship Ellen	533		
Murray, Sir George	Darling, Governor	22 Dec.	No. 73	Ship Waterloo	534		
Darling, Governor	Murray, Sir George	22 Dec.	Separate	Ship Ellen	534	Murray, Sir George	28 Aug.
Do	do	22 Dec.	No. 141	do	3	do	28 Aug.
Murray, Sir George	Darling, Governor	23 Dec.	No. 74	Ship Waterloo	535		
Do	do	24 Dec.	No. 75	do	535		
Hay, Under Secretary	do	24 Dec.		do	536		
Twiss, Under Secretary	do	25 Dec.		do	537		
Darling, Governor	Murray, Sir George	27 Dec.	No. 142	Ship Ellen	538		
Do	do	27 Dec.	Separate	do	541		
Do	do	28 Dec.	No. 143	do	547		
Do	do	29 Dec.	No. 144	do	549	Murray, Sir George	9 Aug.
Do	do	30 Dec.	Separate	do	560		
Do	do	30 Dec.	No. 145	do	564		

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Darling, Governor	Twiss, Under Secretary	30 Dec.	.....	Ship Ellen	566	.....	.....
Do	Murray, Sir George	31 Dec.	No. 146 ...	do	566	.....	.....
Do	do	31 Dec.	No. 147 ...	do	571	.....	.....
Do	Twiss, Under Secretary	31 Dec.	.....	do	574	.....	.....
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Murray, Sir George	Darling, Governor	1 Jan.	No. 76	Ship Waterloo	576	.....	.....
Darling, Governor	Murray, Sir George	1 Jan.	No. 1	Ship Magnet	577	.....	.....
Murray, Sir George	Darling, Governor	2 Jan.	No. 77	Ship Waterloo	577	.....	.....
Darling, Governor	Murray, Sir George	2 Jan.	No. 2	Ship Magnet	578	.....	.....
Murray, Sir George	Darling, Governor	3 Jan.	No. 78	Ship Waterloo	601	.....	.....
Darling, Governor	Murray, Sir George	3 Jan.	No. 3	Ship Magnet	601	.....	.....
Do	Twiss, Under Secretary	3 Jan.	.....	Ship Ellen	602	.....	.....
Hay, Under Secretary	Darling, Governor	4 Jan.	.....	Ship Waterloo	602	.....	.....
Darling, Governor	Murray, Sir George	4 Jan.	No. 4	Ship Magnet	603	.....	.....
Murray, Sir George	Darling, Governor	5 Jan.	No. 79	Ship Waterloo	604	.....	.....
Do	do	6 Jan.	No. 80	do	605	.....	.....
Do	do	7 Jan.	No. 81	do	605	.....	.....
Hay, Under Secretary	do	9 Jan.	.....	do	605	.....	.....
Do	do	10 Jan.	.....	Ship America	607	.....	.....
Darling, Governor	Murray, Sir George	10 Jan.	No. 5	Ship Magnet	607	Murray, Sir George	16 Oct.
Hay, Under Secretary	Darling, Governor	11 Jan.	.....	Ship Waterloo	608	.....	.....
Murray, Sir George	do	12 Jan.	No. 82	do	610	.....	.....
Do	do	13 Jan.	No. 83	do	610	.....	.....
Do	do	14 Jan.	No. 84	do	611	.....	.....
Do	do	15 Jan.	No. 85	do	611	.....	.....
Hay, Under Secretary	do	16 Jan.	.....	do	612	.....	.....
Darling, Governor	Somerset, Lord Fitzroy	20 Jan.	.....	Ship Magnet	612	.....	.....
Do	Twiss, Under Secretary	21 Jan.	.....	do	614	Twiss, Under Secretary	4 Oct.
Murray, Sir George	Darling, Governor	22 Jan.	No. 86	Ship Waterloo	614	.....	.....
Darling, Governor	Twiss, Under Secretary	22 Jan.	.....	Ship Magnet	615	Twiss, Under Secretary	13 Oct.
Do	Murray, Sir George	25 Jan.	No. 6	do	616	.....	.....
Do	do	27 Jan.	No. 7	do	617	.....	.....
Do	do	28 Jan.	No. 8	do	617	.....	.....
Do	Twiss, Under Secretary	28 Jan.	.....	do	618	.....	.....
Do	Murray, Sir George	29 Jan.	Private ...	Ship Lady Blackwood...	618	.....	.....
Do	do	29 Jan.	No. 9	do ...	576	.....	.....
Do	Twiss, Under Secretary	30 Jan.	.....	do ...	622	Twiss, Under Secretary	19 Dec.
Murray, Sir George	Darling, Governor	1 Feb.	No. 87	Ship Waterloo	622	.....	.....
Darling, Governor	Murray, Sir George	1 Feb.	No. 10	Ship Lady Blackwood...	624	.....	.....

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Murray, Sir George	Darling, Governor	2 Feb.	No. 88	Ship Waterloo	632	Darling, Governor	4 Aug.
Darling, Governor	Murray, Sir George	2 Feb.	No. 11	Ship Lady Blackwood...	633	Murray, Sir George	12 Nov.
Do	do	3 Feb.	No. 12	do	576		
Murray, Sir George	Darling, Governor	4 Feb.	No. 89	Ship Waterloo	635		
Hay, Under Secretary	do	5 Feb.		do	635		
Darling, Governor	Murray, Sir George	10 Feb.	No. 13	Ship Lady Blackwood...	636		
Hay, Under Secretary	Darling, Governor	11 Feb.			637		
Darling, Governor	Murray, Sir George	11 Feb.	No. 14	Ship Lady Blackwood...	638	Murray, Sir George	28 Dec.
Do	do	12 Feb.	No. 15	do	641	do	5 Dec.
Twiss, Under Secretary	Darling, Governor	13 Feb.		Ship Waterloo	642		
Darling, Governor	Murray, Sir George	13 Feb.	No. 16	Ship Lady Blackwood...	644	Murray, Sir George	1 Nov.
Hay, Under Secretary	Darling, Governor	16 Feb.			645		
Darling, Governor	Murray, Sir George	16 Feb.	No. 17	Ship Lady Blackwood...	645		
Do	do	17 Feb.	No. 18	do	649		
Do	do	18 Feb.	No. 19	do	650	Murray, Sir George	6 Dec.
Do	do	19 Feb.	No. 20	do	659		
Hay, Under Secretary	Darling, Governor	20 Feb.	Private	Ship Waterloo	660		
Darling, Governor	Murray, Sir George	20 Feb.	No. 21	Ship Lady Blackwood...	661	Murray, Sir George	7 Dec.
Do	do	21 Feb.	No. 22	do	662	do	12 Aug.
Do	do	22 Feb.	No. 23	do	663	do	15 Nov.
Do	do	24 Feb.	No. 24	do	576		
Do	do	24 Feb.	No. 25	do	668	Murray, Sir George	16 Oct.
Do	do	27 Feb.	No. 26	do	669		
Wedderburn, A.	Darling, Governor	1 Mar.		Ship Waterloo	669		
Darling, Governor	Murray, Sir George	1 Mar.	No. 27	Ship Eliza	671	Murray, Sir George	9 Nov.
Hay, Under Secretary	Darling, Governor	9 Mar.			672		
Twiss, Under Secretary	do	11 Mar.			673		
Murray, Sir George	do	15 Mar.	No. 90	Ship America	673		
Darling, Goverror	Twiss, Under Secretary	16 Mar.		Ship Eliza	674		
Do	Murray, Sir George	17 Mar.	No. 28	do	677		
Do	Twiss, Under Secretary	17 Mar.		do	677	Twiss, Under Secretary	28 Dec.
Do	Murray, Sir George	18 Mar.	No. 29	do	678		
Do	do	19 Mar.	No. 30	do	681	Murray, Sir George	3 Nov.
Do	do	19 Mar.	No. 31	do	682	do	14 Nov.
Twiss, Under Secretary	Darling, Governor	20 Mar.		Ship America	683		
Darling, Governor	Murray, Sir George	20 Mar.	No. 32	Ship Eliza	688	Murray, Sir George	1 Aug.
Hay, Under Secretary	Darling, Governor	21 Mar.			688		
Darling, Governor	Murray, Sir George	21 Mar.	No. 33	Ship Eliza	576		
Do	do	21 Mar.	No. 34	do	689		

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Hay, Under Secretary	Darling, Governor	24 Mar.	.....	.....	690	.....	.....
Darling, Governor	Murray, Sir George	24 Mar.	Separate ...	Ship Australia	690	.....	.....
Hay, Under Secretary	Darling, Governor	25 Mar.	.....	.....	692	.....	.....
Darling, Governor	Twiss, Under Secretary	25 Mar.	.....	Ship Australia	692	.....	.....
Murray, Sir George	Darling, Governor	26 Mar.	No. 91	Ship America	693	.....	.....
Twiss, Under Secretary	do	4 April	.....	do	693	.....	.....
Darling, Governor	Murray, Sir George	6 April	No. 35	Ship Australia	693	.....	.....
Twiss, Under Secretary	Darling, Governor	7 April	.....	.....	695	.....	.....
Darling, Governor	Murray, Sir George	7 April	No. 36	Ship Australia	696	Murray, Sir George	1 Sept.
Twiss, Under Secretary	Darling, Governor	8 April	.....	Ship Sovereign	696	.....	.....
Darling, Governor	Murray, Sir George	8 April	No. 37	Ship Australia	696	.....	.....
Hay, Under Secretary	Darling, Governor	9 April	.....	Ship Sovereign	698	.....	.....
Darling, Governor	Murray, Sir George	9 April	No. 38	Ship Australia	698	Murray, Sir George	17 Oct.
Do	do	9 April	No. 39	do	699	.....	.....
Hay, Under Secretary	Darling, Governor	10 April	Private.....	Ship Sovereign	669	.....	.....
Darling, Governor	Murray, Sir George	10 April	No. 40	Ship Australia	700	.....	.....
Murray, Sir George	Darling, Governor	11 April	No. 92	Ship Sovereign	700	.....	.....
Darling, Governor	Murray, Sir George	11 April	No. 41	Ship Australia	701	Murray, Sir George	11 Oct.
Murray, Sir George	Darling, Governor	12 April	No. 93	Ship Sovereign	701	.....	.....
Do	do	12 April	Circular ...	Ship Norfolk	702	Darling, Governor	16 Dec.
Do	do	13 April	No. 94	Ship Sovereign	703	.....	.....
Do	do	14 April	No. 95	do	703	.....	.....
Do	do	15 April	No. 96	do	704	.....	.....
Do	do	16 April	No. 97	do	704	.....	.....
Do	do	16 April	No. 98	do	705	.....	.....
Do	do	16 April	No. 99	do	705	.....	.....
Do	do	16 April	No. 100.....	do	706	.....	.....
Do	do	16 April	No. 101.....	do	706	.....	.....
Do	do	16 April	No. 102.....	do	707	.....	.....
Do	do	16 April	No. 103.....	do	707	.....	.....
Do	do	16 April	No. 104.....	do	708	.....	.....
Do	do	18 April	No. 105.....	Ship Norfolk	708	.....	.....
Darling, Governor	Murray, Sir George	18 April	No. 42	Ship Australia	709	Murray, Sir George	1 Oct.
Murray, Sir George	Darling Governor	19 April	No. 106.....	Ship Norfolk	712	.....	.....
Do	do	20 April	No. 107.....	do	712	.....	.....
Darling, Governor	Murray, Sir George	20 April	No. 43	Ship Australia	712	Murray, Sir George	2 Oct.
Do	do	20 April	Separate ...	do	713	.....	.....
Murray, Sir George	Darling, Governor	21 April	No. 108.....	Ship Norfolk	714	.....	.....
Darling, Governor	Murray, Sir George	21 April	No. 44	Ship Australia	714	.....	.....

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Murray, Sir George	Darling, Governor	22 April	No. 109	Ship Norfolk	716	.....	.....
Darling, Governor	Murray, Sir George	22 April	No. 45	Ship Australia	576	.....	.....
Do	do	22 April	Separate	do	716	Murray, Sir George	10 Oct.
Murray, Sir George	Darling, Governor	23 April	No. 110	Ship Norfolk	719	.....	.....
Darling, Governor	Murray, Sir George	23 April	No. 46	Ship Australia	720	Murray, Sir George	14 Oct.
Do	do	24 April	No. 47	do	721	do	16 Oct.
Do	do	24 April	No. 48	do	723	do	3 Oct.
Do	do	24 April	No. 49	do	724	do	18 Oct.
Do	do	25 April	No. 50	do	576	.....	.....
Do	do	27 April	No. 51	do	729	Murray, Sir George	27 Sept.
Murray, Sir George	Darling, Governor	1 May	No. 111	Ship Norfolk	730	Darling, Governor	23 Nov.
Darling, Governor	Murray, Sir George	2 May	No. 52	Ship Mary	735	Murray, Sir George	8 Dec.
Twiss, Under Secretary	Darling, Governor	3 May	.....	.....	735	.....	.....
Darling, Governor	Murray, Sir George	5 May	No. 53	Ship Mary	735	Murray, Sir George	8 Nov.
Do	do	5 May	No. 54	do	737	do	19 Oct.
Twiss, Under Secretary	Darling, Governor	11 May	.....	.....	742	.....	.....
Darling, Governor	Murray, Sir George	14 May	No. 55	Ship Vesper	743	.....	.....
Do	do	14 May	No. 56	do	743	Murray, Sir George	9 Dec.
Do	do	16 May	No. 57	do	743	.....	.....
Do	do	17 May	No. 58	do	744	.....	.....
Do	do	18 May	No. 59	do	748	Murray, Sir George	9 Dec.
Do	Twiss, Under Secretary	18 May	.....	do	752	.....	.....
Do	Murray, Sir George	19 May	No. 60	do	758	Murray, Sir George	13 Nov.
Do	do	20 May	No. 61	do	762	.....	.....
Twiss, Under Secretary	Darling, Governor	21 May	.....	Ship John	777	.....	.....
Darling, Governor	Murray, Sir George	21 May	No. 62	Ship Vesper	779	.....	.....
Twiss, Under Secretary	Darling, Governor	22 May	.....	Ship John	779	.....	.....
Darling, Governor	Murray, Sir George	22 May	No. 63	Ship Vesper	780	Murray, Sir George	10 Dec.
Murray, Sir George	Darling, Governor	23 May	No. 112	Ship John	780	.....	.....
Darling, Governor	Murray, Sir George	23 May	No. 64	Ship Vesper	780	Murray, Sir George	11 Dec.
Murray, Sir George	Darling, Governor	25 May	No. 113	Ship Guilford	784	.....	.....
Darling, Governor	Murray, Sir George	25 May	No. 65	Ship Vesper	792	.....	.....
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Do	do	27 May	No. 115	do	793	.....	.....
Darling, Governor	Murray, Sir George	28 May	No. 66	Ship Vesper	793	.....	.....
Do	do	30 May	No. 67	do	576	.....	.....
Twiss, Under Secretary	Darling, Governor	31 May	Circular	Ship Guilford	899	Darling, Governor	12 Feb.
Darling, Governor	Murray, Sir George	31 May	No. 68	Ship Vesper	900	.....	.....

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